

Howell v. City of Zion, et al.
Case No.: 16 CV 3949

EXHIBIT E

JAMIE BORDEN

August 25, 2017

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 ALICE HOWELL, Independent)
5 administrator of the estate of)
6 JUSTUS HOWELL, deceased,) CASE NO. 16-cv-03949
7 Plaintiff,)
8 vs.)
9 CITY OF ZION, a municipal)
10 corporation, OFFICER ERIC)
11 14ILL, (#47),)
12 Defendants.)
13 _____)

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17 DEPOSITION OF JAMIE BORDEN

18 Taken on Friday, August 25, 2017

19 At 10:40 a.m.

20 At All-American Court Reporters

21 1160 N Town Center Drive

22 Suite 300

23 Las Vegas, Nevada

24

25 REPORTED BY SHIFRA MOSCOVITZ, CCR NO. 938

JAMIE BORDEN

August 25, 2017

<p>1 APPEARANCES:</p> <p>2 POr Alice Rowell!</p> <p>3 CARLipN phim, ESQ, 06;M LAW OFFICES 225 N, washington Street Suite 2200 Chicago, Illinois 60606 012)570-9390</p> <p>7</p> <p>8 For Officer Eric Hill;</p> <p>0 THIONAB DICIANNI, HQ, AKIN, O.310K DIAMOND BUSK DICIANNI & KRAFTREFER 10 140 South <i>Dearborn Street</i> Chicago, Illinois 60603 11 (312)782.7606</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p> <p>1 LA8 VE2A8, NEVADA; AUGUST 25, 2017</p> <p>2 10:40 A.M.</p> <p>3</p> <p>4 (NRCP Rule 30(b)(4) waived by the parties prior to the</p> <p>5 commenCemant of the deposition.)</p> <p>6 (FRCP Rule 30(1:)(5) waived by the parties prior to <i>the</i></p> <p>7 <i>COMMenCeMent</i> of the deposition.)</p> <p>8 Thereupon--</p> <p>9 JAMIE BORDEN,</p> <p>10 was called as a witness, and having been first duly sworn,</p> <p>11 was examined and testified as follows:</p> <p>12 MICIATION</p> <p>13 HY MR. ODIN:</p> <p>14 Q. Good morning, Officer Borden.</p> <p>15 A. Good Morning.</p> <p>16 Q. This is your deposition in the context of</p> <p>17 you being designated as en expert witness by the</p> <p>18 Defendants in the case of Howell versus Zion et al,</p> <p>19 correct?</p> <p>20 A. Yes, sir,</p> <p>21 Q. Have you taken a deposition before?</p> <p>22 A, Yea, sir.</p> <p>23 Q. How many tinal?</p> <p>24 A, Between arbitration and normal</p> <p>25 depositions, approximately eight times.</p> <p>Page 4</p>
<p>1 SRAMINATICIN</p> <p>2 WITNESS;</p> <p>Jamie Borden</p> <p>Examination by</p> <p>mr. Qdim</p> <p>6</p> <p>9 EXH/RITE</p> <p>1\$ MIETT</p> <p>11 Exhibit 1 Came Review and Analysisq</p> <p>12 Exhibit 2 R8BUME,</p> <p>13 Exhibit 3 Directory Structure</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>PAPE</p> <p>Page 5</p> <p>2 Q. Okay. So you understand the banjo ground</p> <p>3 rules?</p> <p>4 A. Yes.</p> <p>5 Q. You can verbalize your responses, and if</p> <p>6 you don't understand anything ask ma?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Or I will aassume that you did understand</p> <p>9 it?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Okay. I am going to show you what we are</p> <p>12 going to mark as Exhibit 2, a copy of your resume.</p> <p>13 And Exhibit 2 is a copy of your resume, correct?</p> <p>14 A. Yns, air.</p> <p>15 (Exhibit 2 was marked for</p> <p>16 identification.)</p> <p>17 Q. And is this a current resume, meaning, one</p> <p>18 that includes information within the last three</p> <p>19 months?</p> <p>20 A- Yes, sir, with the exception of a couple</p> <p>21 of speaking engagements that have happened since</p> <p>22 then. On your hard drive is the most recent.</p> <p>23 Q. Okay. So the difference would be between</p> <p>24 Exhibit 2 and what is on the hard drive, the</p> <p>25 difference would be speaking engagements?</p> <p>A. And T have taken on one additional case</p> <p>Page 5</p>

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<p>that's listed on there.</p> <p>2 Q- Okay. What case is that?</p> <p>A. Padia versus Oxnard,</p> <p>3 Q. Where is that case pending?</p> <p>5 A. In I believe in the jurisdiction of</p> <p>6 Oxnard.</p> <p>7 Q- California?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And what is your role in that case?</p> <p>10 A. Expert witness.</p> <p>11 p. And expert witness on what topics?</p> <p>12 A. In that case, police procedures, use of</p> <p>13 force.</p> <p>14 Q. Underlying facts involve what?</p> <p>15 A. The use of a tamer.</p> <p>16 Q. Have you prepared a report in that case?</p> <p>17 A. I have prepared an initial report, yes,</p> <p>18 sir,</p> <p>19 Q. Did the suspect die in that case?</p> <p>20 A. No, sir.</p> <p>21 Q. And than there was no other use of force</p> <p>22 in that case involving the discharge of any device?</p> <p>23 A. No, sir.</p> <p>24 Q. Look at Ddlibit 2, now, your resume, and</p> <p>25 because it's a mouthful we will just call it a</p>	<p>1 Q. Okay, were you under any investigation?</p> <p>2 A. No, sir-</p> <p>3 Q. Just prior to you resigning in 2001?</p> <p>4 A. No, sir.</p> <p>Q. Had any complaints been filed against you</p> <p>6 just prior to your resigning in 2001?</p> <p>7 A. There was a, well, it was I think it was</p> <p>8 more a complaint against my wife. She was a police</p> <p>9 officer at the time. There was, I was parked in a</p> <p>10 pick up zone to pick up my wife at the airport and</p> <p>11 one of the security guards told me to move on, my</p> <p>12 wife was getting into the truck, I told him that she</p> <p>13 was loading, and he waived me on. And I said, hey,</p> <p>14 hold on a minute, I am. Any ways my badge was</p> <p>15 laying in the dashboard and that ended up in a</p> <p>16 complaint with IA, which was unfounded.</p> <p>17 Q. Okay.</p> <p>18 A. That's the only investigation I have been</p> <p>19 involved in, in my career with the Police</p> <p>20 Department.</p> <p>21 Q. You anticipated my next set of questions</p> <p>22 BO we can move on.</p> <p>23 A. Okay.</p> <p>24 Q. So between 2001 and 2008, were you</p> <p>25 employed?</p>
Page 7	Page 9
<p>1 resume?</p> <p>2 A. Yes, sir.</p> <p>3 Q. You were a police officer with the</p> <p>4 genderaon, Nevada Police Force from 1997 to 2001,</p> <p>5 correct?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And from 2008 to 2016?</p> <p>8 A. To current date, yet, sir.</p> <p>9 Q. To the current date. So the entry, 2008</p> <p>10 to 2016, that should be 2008 to the present.</p> <p>11 A. To present, yes.</p> <p>12 Q. Okay. There is a gap in your employment</p> <p>13 with the Henderson, Nevada Police Department from</p> <p>14 2001 to 2008, correct?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Why were you no longer employed with the</p> <p>17 Henderson Nevada Police Department in 2001?</p> <p>18 A. I resigned for family issues. I was at</p> <p>19 the time I resigned, I was a narcotics officer and</p> <p>20 at the time it was requiring me to be involved in,</p> <p>21 very involved in investigations, it was taking away</p> <p>22 from my ability to take care of my father who was</p> <p>23 ailing, who then passed away in 2003, and then I</p> <p>24 just stayed with what I was doing until 2008 when</p> <p>25 decided to so back to the police Department.</p>	<p>A. Yes, sir.</p> <p>2 Q. And give me the chronology?</p> <p>A. Self-employed, professional musician.</p> <p>4 Q. You were a drummer and still are?</p> <p>A. Still am, yes, sir.</p> <p>Q. You don't reflect your employment, self</p> <p>employment as a drummer on this resume. Is there a</p> <p>8 reason for that?</p> <p>9 A. It's irrelevant to the work that I do as</p> <p>10 an expert witness and a police officer.</p> <p>11 Q. While you were employed as a drummer, did</p> <p>12 you, I mean I see that you have listed, I will ask</p> <p>13 another question. How did you get back on the force</p> <p>14 in 2008?</p> <p>15 A. I unfortunately had to test and go through</p> <p>16 a second academy, which was a task and then I was</p> <p>17 back in the department.</p> <p>18 Q. And what was your first job position when</p> <p>19 you got back on there?</p> <p>20 A. Patrol.</p> <p>21 Patrol?</p> <p>22 A. Yes.</p> <p>23 p. How long did you hold that position as</p> <p>24 patrol officer?</p> <p>25 A. I believe two years, I was back in patrol</p>

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<p style="text-align: right;">Page 10</p> <p>1 for two years, 2008 until late 2010.</p> <p>2 Q. Okay. And after you were a patrol officer</p> <p>3 what position did you take with the force?</p> <p>4 A. I promoted into the training bureau.</p> <p>5 Q. That was in 2011?</p> <p>6 A. Yes, I believe it was 2011, late 2011.</p> <p>7 Yes, sir, or I am sorry, late 2010, I believe.</p> <p>8 Q. Late 2010. And would that entry in this</p> <p>resume be the first entry under professional</p> <p>10 assignments, to the left it says 2010 to the</p> <p>11 present?</p> <p>12 A. Professional assignments, I have 2000,</p> <p>13 yes, sir, yes, I see to the left that was the</p> <p>14 assignment. So it would be 2010, I believe, it was</p> <p>15 mid to late 2010, I don't have exact dates on that.</p> <p>16 Q. And you have been in that training bureau</p> <p>17 since late 2010. correct?</p> <p>18 A. Yes, sir, that's right.</p> <p>19 Q. Did you apply for that position?</p> <p>20 A. I did.</p> <p>21 Q. And do you recall what the job</p> <p>22 requirements were in the announcement of the?</p> <p>23 A. I don't.</p> <p>24 Q. When you initially took the position what</p> <p>25 were your job responsibilities?</p>	<p style="text-align: right;">Page 12</p> <p>1 exact dates but six to eight months before I started</p> <p>2 working on a niche assignment.</p> <p>3 Q. Okay. And at some point after that you</p> <p>4 became certified in the niche assignment?</p> <p>5 A. I did, yes.</p> <p>6 Q. And when did you become certified in the</p> <p>7 niche assignment and I assume we are talking about</p> <p>8 the use of force niche assignment?</p> <p>9 A. Yes, the certifications, there is no</p> <p>10 particular certification for use of force. So I was</p> <p>11 certified in things like as a taser instructor, I</p> <p>12 was certified in baton instruction, I was certified</p> <p>13 with things that had to do with use of force, but</p> <p>14 moreover, as I became more in-tuned and entrenched</p> <p>15 in use of force, I began to study case law, I began</p> <p>16 to study the science behind human factors,</p> <p>17 behavioral science became certified through the For</p> <p>18 Science Institute, their program as certified a</p> <p>19 analyst and then an advanced specialist. So those</p> <p>20 certifications that were related to use of force is</p> <p>21 where my specialty began.</p> <p>22 Q. I just for now want to focus on the</p> <p>23 Henderson department?</p> <p>24 A. Okay, And that is with the Henderson</p> <p>25 department.</p>
<p style="text-align: right;">Page 11</p> <p>1 A. That of a standard training officer,</p> <p>2 in-service training participation in the academy,</p> <p>3 citizens' academy, entry academy. So it's as a</p> <p>4 general training officer.</p> <p>5 Q. And what is a general training officer, as</p> <p>6 opposed to, a none general training officer?</p> <p>7 A. We have training officers that are</p> <p>8 specialized that after an amount of time they become</p> <p>9 oriented with firearms or master taser instructor,</p> <p>10 that doesn't mean they don't handle other training</p> <p>11 assignments, but it means they have a particular</p> <p>12 specialty in a particular thing. A master taser</p> <p>13 instructor for instance or a master defensive tactic</p> <p>14 instructor. Otherwise you participate and become</p> <p>15 certified as an instructor in all of these things,</p> <p>16 but you are not necessarily the lead instructor.</p> <p>17 Q. At some point you became a non general, I</p> <p>18 mean, yes a non general?</p> <p>19 A. Yes, my focus became use of force.</p> <p>20 Q. When did that happen during your tenure,</p> <p>21 between 2010 and the present?</p> <p>22 A. It's kind of duct tailed in everything</p> <p>23 else. I was on for about six months before I</p> <p>24 started taking on the adjunct portion of use of</p> <p>25 force, and then it grew from there. So I don't have</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. That is the niche training assignments?</p> <p>2 A. Right.</p> <p>3 Q. So you testified that there would be a</p> <p>4 new one?</p> <p>5 A. Yee, I was a certified taser instructor,</p> <p>6 but not a master taser instructor.</p> <p>7 Q. So between 2010 and the present, what are,</p> <p>8 what would be the niche training categories for</p> <p>9 which an officer may become certified in by the</p> <p>10 Henderson Police Department?</p> <p>11 A. Any number of things. You have to be a</p> <p>12 certified instructor to teach firearms, to be a</p> <p>13 firearms safety officer. There is just a number,</p> <p>14 everything that has to do with training, you have to</p> <p>15 be approved by the Henderson Police Department to do</p> <p>16 that. And that's trained by the existing trainers.</p> <p>17 So there is no global certification, it's just that</p> <p>18 the department gives you the blessing of being that</p> <p>19 person that's designated to do that, based on your</p> <p>20 skill set and your ability as proven to the</p> <p>21 leadership for the training bureau.</p> <p>22 Q. I am trying to get a handle on structure</p> <p>23 and labels here. So you started out as a general?</p> <p>24 A. Yea, right-</p> <p>25 Q. At some point you assumed same adjunct or</p>

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<p style="text-align: right;">Page 14</p> <p>as you call it niche role for certain subjects?</p> <p>2 A. Right.</p> <p>8 Q. Was one of those subjects ever taser</p> <p>4 training or taser?</p> <p>5 A. It was one of the general assignments that</p> <p>6 I had, I wasn't a certified baser instructor.</p> <p>7 Q. And when you use certified here, you said</p> <p>certified by taster, you mean?</p> <p>8 A. Right.</p> <p>10 Q. You mean the company?</p> <p>11 A. Yee,</p> <p>12 Q. Certified, not the Henderson Police</p> <p>13 Department?</p> <p>14 A. Right, taser is a different beast than.</p> <p>15 Yes, taser has to certify you as a taser instructor,</p> <p>16 the Polite Department cannot do that.</p> <p>17 Q. Baton use?</p> <p>18 A. Yes.</p> <p>19 Q. Certification as a niche training area?</p> <p>20 A. Not niche, no, I was a general trainer of</p> <p>21 baton. So lead instructors would be on hand as we</p> <p>22 were training the use of baton.</p> <p>23 Q. Okay. what were the areas of training</p> <p>24 involving firearm in the Henderson Police</p> <p>25 Department from 2010 to the present?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. And this form of designation comes how?</p> <p>2 A. Through qualifications, through training</p> <p>3 within the department.</p> <p>4 Q. would the department, for instance, send a</p> <p>letter saying you are now designated as a firearms</p> <p>6 trainer?</p> <p>7 A. Not necessarily, it's an internal</p> <p>8 designation.</p> <p>9 Q. So it could be oral?</p> <p>10 A. It could be.</p> <p>11 Q. Do you have any written record of you</p> <p>12 being designated as a firearms trainer with?</p> <p>13 A. I have a certification through NRA.</p> <p>14 Q. mean through the Henderson Police</p> <p>15 Department?</p> <p>16 A. AO an employee of the Henderson Police</p> <p>17 Department I was certified through the NRA for my</p> <p>28 position as a range master.</p> <p>19 Q. Did your certification with the NRA, was</p> <p>20 that part of your qualifications for getting the</p> <p>21 position that you had?</p> <p>22 A. Yes, it helped.</p> <p>23 Q. At the Henderson Police Department?</p> <p>24 A. Absolutely, it was part of the deal.</p> <p>25 Q. And when did the NRA give you this</p>
<p style="text-align: right;">Page 15</p> <p>A. Can you be more specific with that</p> <p>2 question, I am not sure?</p> <p>3 Q. At some point you were training in</p> <p>4 firearm?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And the use of firearms in the context of</p> <p>7 a police officer's contact with civilian population?</p> <p>8 A. Right.</p> <p>9 Q. Doe0 the Henderson Police Department</p> <p>10 distinguish various vane of firearms for training</p> <p>11 and certification purposes of its officers?</p> <p>12 A. Not various uses, it's just the use of</p> <p>13 firearms. There is different firearm</p> <p>14 certifications. Have you to be certified by the NRA</p> <p>15 to be a full-time instructor or range master, which</p> <p>16 you are certified in, and the use of the department</p> <p>17 issued hand guns,</p> <p>18 Q. But again strictly now in the Henderson</p> <p>19 Police Department, does the Henderson Police</p> <p>20 Department provide any certifications for its</p> <p>21 officers, training other officers in the use of</p> <p>22 firearms?</p> <p>23 A. No, they are just designated as the</p> <p>24 training officers because of their skill set and</p> <p>25 their abilities as proven to the leadership.</p>	<p style="text-align: right;">Page 3,7</p> <p>1 certification?</p> <p>2 A. I can't give you a date, I don't remember,</p> <p>3 Q. Roughly?</p> <p>4 A. It had to have been 2011, 2012, time</p> <p>5 frame,</p> <p>6 Q. And did you do anything with the NRA prior</p> <p>7 to getting the certification?</p> <p>8 A. No, sir.</p> <p>9 Q. How did you get the certification with the</p> <p>10 NRA?</p> <p>11 A. Through the class.</p> <p>12 Q. And its an NRA class?</p> <p>13 A. It is, it's an PRA lesson plan.</p> <p>14 Q. Is that lesson plan listed in your resume,</p> <p>15 Exhibit 2?</p> <p>16 A. No.</p> <p>17 Q. Is the certification for the NRA, that you</p> <p>18 got from the NRA listed in your resume?</p> <p>19 A. No, sir.</p> <p>20 Q. The clog that you took, was it an in</p> <p>21 person class?</p> <p>22 A. Yee, sir.</p> <p>23 Q. And do you recall where you took it?</p> <p>24 A, Yes, I do. It was at the range that</p> <p>25 Fendareon use to maintain in Henderson, Nevada, in</p>

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<p style="text-align: right;">Page 18</p> <p>1 One of the classrooms there.</p> <p>2 Q. And did the NRA give you a written</p> <p>3 certificate or piece of paper saying you have</p> <p>4 successfully completed this course?</p> <p>5 A. I would assume there was one in my</p> <p>6 training tile, but I couldn't be certain about that.</p> <p>7 Q. Okay. From 2018 to the present, you list</p> <p>8 on your resume that you are senior instructor at</p> <p>9 Force Science Institute?</p> <p>10 A. Yes.</p> <p>11 Q. And from 2013 through 2016, you are</p> <p>12 instructor at Force Science Institute?</p> <p>13 A. Yes.</p> <p>14 Q. What is the Force Science Institute?</p> <p>15 A. It's an institute that is based in the</p> <p>16 study of human fatoro and human behavioral science.</p> <p>17 And what they focus on; police work, law</p> <p>18 Enforcement.</p> <p>19 Q. And is the Force Science Institute</p> <p>20 accredited by any accreditation body in. the United</p> <p>21 States?</p> <p>22 A. Not to my knowledge,</p> <p>23 Q. Is the Force Science Institute a not for</p> <p>24 profit educational institute?</p> <p>25 A. I am not certain if they are or not.</p>	<p style="text-align: right;">Page 20</p> <p>1 action versus reaction.</p> <p>2 Q. Is that a course that was presented by or</p> <p>3 made available by Force Science Institute?</p> <p>4 A. Yes.</p> <p>5 Q. And Lewinski taught that course?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And that's how you had your first</p> <p>8 interaction with him?</p> <p>9 A. No, that was not my first interaction. I</p> <p>10 was certified as an analyst in the one week course</p> <p>11 prior to that,</p> <p>12 Q. Okay. The certification as an analyst,</p> <p>13 does that appear in this?</p> <p>14 A. Yes.</p> <p>15 Q. It appears it's May, 2012?</p> <p>16 A. Correct.</p> <p>17 Q. When you are a force science analyst?</p> <p>18 A. Yes.</p> <p>19 Q. You took a course in order to be certified</p> <p>20 as that analyst?</p> <p>21 A. Yes.</p> <p>22 Q. At Force Science?</p> <p>23 A. Yes.</p> <p>24 Q. Did Lewinski teach that course, as well?</p> <p>25 A. Yes, him and several other Ph.D.'s and</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Would it surprise you if I told you they</p> <p>2 are a for profit entity?</p> <p>3 A. It wouldn't.</p> <p>4 Q. What did you do in order to become an</p> <p>5 instructor at Force Science Institute in 2000 --</p> <p>6 just prior to 2013?</p> <p>7 A. I told them that I would when they asked</p> <p>8 me if I was interested.</p> <p>9 Q. Who asked, which individual?</p> <p>10 A. Dr. Rill Lewinski.</p> <p>11 Q. Do you know why he asked you?</p> <p>12 A. I am assuming because of my time spent</p> <p>13 with him in the advanced certification course. And</p> <p>14 in his words I showed an intuitive understanding of</p> <p>15 the application of the empirical data and the</p> <p>16 sciences behind human behavior, and the science</p> <p>17 behind action, reaction times and how that applies</p> <p>18 to a police officer in a critical incident.</p> <p>19 Q. What is the advanced certification course?</p> <p>20 A. When I went through it, it was</p> <p>21 approximately a four hundred hour study in</p> <p>22 kinesiology and decision making, adult learning,</p> <p>23 with an additional focus on the empirical data</p> <p>24 gained by scientific studies of human movement,</p> <p>25 human dynamics, human action and human reaction,</p>	<p style="text-align: right;">Page 21</p> <p>1 people that were responsible for other areas of</p> <p>2 instruction that had to do with psychology.</p> <p>3 Q. So basically after your having taken with</p> <p>4 one or more courses with Force Science, Lewinski</p> <p>5 said, this is bright egg, picked you out of the lot?</p> <p>6 MR. DICIANNI: So it seems.</p> <p>7 Q. So you accepted his offer to become an</p> <p>8 instructor and you were an instructor for the period</p> <p>9 2013 to 2016. What is the difference between an</p> <p>10 instructor and the capacity that you now hold senior</p> <p>11 instructor, with Force Science?</p> <p>12 A. The biggest difference is the time, the</p> <p>13 second difference is, I have been promoted to senior</p> <p>14 instructor, so I am not, they don't have me teach</p> <p>15 another instructor. I am teaching the full two day</p> <p>16 courses on my own. I am involved in the development</p> <p>17 of other classes for Force Science, through</p> <p>18 basically the application of time had become a</p> <p>19 senior member of their instruction staff. Which in</p> <p>20 my invoices on it now says senior instructor, I</p> <p>21 think that's the main difference.</p> <p>22 Q. Since you took the position in the</p> <p>23 training bureau in 2010, have your duties at the</p> <p>24 training bureau changed?</p> <p>25 A. Yes, they have changed.</p>

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<p>1 Q. Okay, would you take me through the</p> <p>2 changes from 2010 to the present?</p> <p>A. I can. It's, there is not exact dates</p> <p>4 because the way the training bureau has worked.</p> <p>5 After my certifications with the Force Science</p> <p>6 Institute and my continued studies in case law, my</p> <p>7 continued studies in psychology, and all of the</p> <p>8 relevant information that goes towards my position</p> <p>9 at the Police Department, the chief of police at the</p> <p>10 time asked me to be the catalyst for a specific</p> <p>11 unit, which as time was moving on I became more and</p> <p>12 more focused on use of force because the subject</p> <p>13 matter is very important for many different reasons,</p> <p>14 transparency, for the well-being of the department,</p> <p>15 the well-being of the training aspect of use of</p> <p>16 force. So that became more and more of my focus,</p> <p>17 and I began reviewing the use of force with the</p> <p>18 department and as that job began to expand that unit</p> <p>19 then became, or the position that I had formed, the</p> <p>20 use of form training and analyst officer</p> <p>21 subsequently became a unit and we started to form</p> <p>22 the unit and just like any other large corporation,</p> <p>23 these things don't happen over night there is</p> <p>24 protocol, there are procedures that have to be</p> <p>25 identified, there is executive privileges, what is a</p>	<p>1 identifying trends in use of force and approaching</p> <p>2 that from a training aspect and improving policy</p> <p>3 through the department; improving our training</p> <p>4 through the department, improving our use of force</p> <p>5 in-service, training, improving our use of force</p> <p>6 academy, citizens academy, any contacts we had with</p> <p>7 the city of municipality as far as the training they</p> <p>8 were to have to understand what we are doing as a</p> <p>9 police department. So over time it has grown into</p> <p>10 what it is today, and I am currently the sergeant</p> <p>11 over the use of force and training analysis unit,</p> <p>12 which encumbers all of the things I spoke about,</p> <p>13 And as of last week I became the sergeant over the</p> <p>14 entire training bureau, which includes under that</p> <p>15 umbrella the use of force training and analysis</p> <p>16 unit, so I have taken on several more direct reports</p> <p>17 and several more responsibilities,</p> <p>18 O. Okay. Just I want to have you give me</p> <p>19 more information about a couple of terms that you</p> <p>20 used and names that I am not familiar with?</p> <p>21 A. Okay.</p> <p>22 O. I saw it in one of your document, you</p> <p>23 talked about C.4-14,E.A.E, standard, what is that,</p> <p>24 spoil that?</p> <p>25 A, C-A-L-E-A-E, I believe, it's a standard</p>
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<p>1 work product, how are we doing what we are doing and</p> <p>2 why, when that was identified the chief then gave</p> <p>3 me another officer to work with me, who was now</p> <p>4 feathered in part-time and started to take some of</p> <p>5 those tasks, as I started to develop the protocols</p> <p>6 and procedures for identifying use of force issues,</p> <p>7 creating training, disseminating that training and</p> <p>8 making certain that was a nimble task that we</p> <p>9 weren't waiting because lessons that are learned,</p> <p>10 good, bad or indifferent needed to be disseminated</p> <p>11 quickly, and that's one of the things that put our</p> <p>12 department on the map, so to speak, with the</p> <p>13 dissemination of training because that's how we</p> <p>14 became a better department. As that progressed I</p> <p>15 then promoted to sergeant, and the police chief kept</p> <p>16 me in place as the sergeant over the now use of</p> <p>17 force training and analysis unit, which basically is</p> <p>18 responsible for reviewing every use of force that</p> <p>19 occurs on the Police Department through an</p> <p>20 accountability software, that it's referred to as</p> <p>21 Blue Team through IA Pro. That is a C.A.L.E.A.E.</p> <p>22 standard, a statistical tracking device, if you</p> <p>23 will, And my position there led to many different</p> <p>24 changes, it led to periodic review and updated force</p> <p>25 of our use of force policies, to make sure we were</p>	<p>1 that Police Department strive for, for</p> <p>2 accreditation, it's basically an accreditation</p> <p>3 standard for the police department, and we are</p> <p>4 currently a gold standard department accredited</p> <p>5 through the C.A.L.E.A.E.</p> <p>6 MR. DICIANNI: Committee on accreditation</p> <p>7 of law Enforcement agencies,</p> <p>8 Q. Committee of what organization?</p> <p>9 MR. DICIANNI: It's own.</p> <p>10 A. Honestly, I have forgotten what the</p> <p>11 acronym, because we just have a C.A.L.E.A.E.</p> <p>12 standard unit and it literally is one of the loan</p> <p>13 standing accreditation companies for Police</p> <p>14 Departments nationwide.</p> <p>15 Q. It's a private entity or is it, you know,</p> <p>16 for instance like OSEA may have a committee or</p> <p>17 certain kind of standard?</p> <p>18 A. They work with IACP, International</p> <p>19 Association of Chiefs of Police, and I honestly</p> <p>20 don't know their structural make up.</p> <p>21 Q. I got you. And you said you used the</p> <p>22 phrase blue team software?</p> <p>23 A. Yes, it's a reporting software, it's a</p> <p>24 reporting platform that is statistically tracks use</p> <p>25 of force. It's simply one of the things that is</p>

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<p style="text-align: right;">Page 26</p> <p>1 required by C.A.L.E.A.E. to track the use of force 2 on the department, effective use of force, what is 3 not effective, how many times a tamer was used, it's 4 simply a statistical tracking software. 5 Q. It's a proprietary, private proprietary 6 software that Henderson buys or licenses? 7 A. we license it just like any other 8 department, many departments across the country use 9 blue team and LA Pro. 10 Q. And the statistical analysis that you or 11 your team do is statistical analysis that is 12 basically performed by the algorithms in the blue 13 team software which is based upon the data that your 14 team inputs into that software? 15 A. No, it's based on the data that's put into 16 the software by the reporting officers, which this 17 is one of the items that I have developed with my 18 unit, is that every sergeant is required to do an on 19 scene use of force investigation, which then comes 20 to me and my team, we verify that all that 21 information is there and that the proper protocols 22 have been followed and that information sits as is 23 as reported in the field. We don't create the data. 24 The data is available on the White House website in 25 the portal, The Data Initiative for Police</p>	<p style="text-align: right;">Page 28</p> <p>1 A. No, the name of my business, CIR is simply 2 Critical Incident Review, this has nothing to do 3 with my business. My business is an entity 4 completely outside of the Police Department. 5 Q. Okay. 6 A. Critical incident investigations is simply 7 a task. 8 Q. Within your? 9 A. Within my position at the Police 10 Department. 11 Q. At the Police Department, So none of the 12 information contained on Page 4 of Exhibit 2 is 13 related to your business as critical incident 14 review? 15 A. No, those are simply tasks I handle at the 16 Police Department. 17 MR, DICIANNI! Just suggestion, you guys 18 are little bit talking over each other, and she 19 is going to have a problem with that. 20 Q. Let me ask you about your business. CIR, 21 on the first page of Exhibit 2, CIR stands for 22 Critical Incident Review? 23 A. Yes. 24 Q. Is that a trade name or an incorporated 25 entity?</p>
<p style="text-align: right;">Page 27</p> <p>1 Departments. So the main reason for that 2 statistical analysis is so we might put that 3 transparent information into the data portal for the 4 white house under the 21st century police. 5 Q. So the data set that is subject to the 6 analysis in the blue team software is Henderson 7 police data? 8 A. It's all Henderson, it's specific to our 9 department, that's correct. 10 Q. And so when you used the word earlier 11 trends, trends in the use of force, these are trends 12 that are specific to Henderson? 13 A. Correct, sir. 14 Q. No other police force? 15 A. No other Police Department. If I had to 16 worry about another Police Department they couldn't 17 print enough money. 18 Q. Would you turn to Page 4 of exhibit 2? 19 A. Yes. 20 Q. And the second on the underlined topic 2a heading says Critical Incident Investigations? 22 A. Yes, sir. 23 Q. Does the phrase Critical Incident 24 investigation mean anything more than your business, 25 CIR7</p>	<p style="text-align: right;">Page 2P</p> <p>a A. It's under the umbrella doing business as 2 under my production company, which is Studio 824, 3 O, This is the drumming studio or music 4 studio? 5 A. Recording studio, as well as a video 6 studio. 7 Q. And is Studio 824 an incorporated entity? 8 A. Yes, sir. 9 Q. And Studio 624 is doing business as CIR, 10 correct? 11 A. CIR, it's Studio 824 is the company and I 12 am doing business as Critical Incident Review. 13 Q. Okay. It's not Jamie Borden doing 14 business as Critical Incident Review? 15 A. No, sir. I used the federal ID number 16 from Studio 824, that should sum it up. 17 Q. Okay. 18 A. It's all about those numbers. 19 Q. And when did Studio 824 begin doing 20 business as CIR? 21 A, I believe in 2014 was my first actual 22 report, and that could be early 2015 just seems like 23 life is a blur and those dates just don't seem to 24 make sense to me. 25 Q. And the Page 116, Exhibit 2 lists cases 11</p>

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<p style="text-align: right;">Page 30</p> <p>1 and 12, correct?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are all of the cases listed on 11 and 12</p> <p>4 of Exhibit 2 cases that were apart of the portfolio</p> <p>5 of Critical Incident Review?</p> <p>6 A. Yea, sir, those are with my personal</p> <p>7 business.</p> <p>8 Q. Okay, Now look at Page 8 of the resume,</p> <p>9 the special assignments position, everything under</p> <p>10 special assignments forward/positioned are related</p> <p>11 to your job at the Henderson Police Department?</p> <p>12 A. Yes, sir. That is the special assignment</p> <p>13 at the Police Department, as the use of force</p> <p>14 training and analysis officer between those dates.</p> <p>15 Those are some of the more pointed, more prominent</p> <p>16 tasks.</p> <p>17 Q. And look towards the bottom of that page,</p> <p>18 it says public instructor, speaking instructor,</p> <p>19 commission, 2002 to 2008, and private sector. Does</p> <p>20 this mean anything in context with your job duties</p> <p>21 at the Henderson Police Department?</p> <p>22 A. No, sir. That is public speaking and</p> <p>23 instructor, that I am a certified public speaker and</p> <p>24 commissioned the music industry. And that just goes</p> <p>25 to my public speaking experience, And that was all</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Diploma, as far as high school, I got my</p> <p>2 obvious requirements to get the job. As far as a</p> <p>3 degree, no, I have no degree. I have a few more</p> <p>4 credits to go to get my CRJ, with focus on</p> <p>5 psychology, but time has been evasive, so I am still</p> <p>6 only close, I am not there.</p> <p>7 Q. What is the acronym, CFO?</p> <p>8 A. Criminal justice.</p> <p>9 Q. And was that University of Nevada?</p> <p>10 A. CSN.</p> <p>11 Q, what is that?</p> <p>12 A. Community of Southern Nevada.</p> <p>13 Q. When did you begin that program?</p> <p>14 A. The initial credit came from the</p> <p>15 attendance of the academy, which goes towards your</p> <p>16 CRJ degree, and then there is additional classes</p> <p>17 that have to ha taken. The class and the advanced</p> <p>18 specialist course was transferred into credits</p> <p>19 through CSN for college credits and was applied</p> <p>20 towards my CRJ degree. And that's all through CSN.</p> <p>21 That all began in 2008 when I initially re-entered</p> <p>22 the academy.</p> <p>23 Q. So am I reading this correctly that you,</p> <p>24 the credit hours that you have towards the CRJ in</p> <p>25 psychology are not credit hours from classes taken</p>
<p style="text-align: right;">Page 31</p> <p>1 not to do with the Police Department, but just</p> <p>2 outside. That's why I have those dates listed as</p> <p>3 2002 to 2008,</p> <p>4 Q. Okay. Bo of the items that are listed</p> <p>5 under special assignments for/position, the public</p> <p>6 speaking one is the only one that's not related to</p> <p>7 your Henderson job duties?</p> <p>8 A. In this, yes, in this portion, yes.</p> <p>9 Q. Now, Page 9 of the resume, under the</p> <p>10 public speaking and presentation forward/instruction</p> <p>11 related to police use of force.</p> <p>12 A. Yes, sir.</p> <p>13 Q. Are all these presentations and</p> <p>14 instruction things that you presented or instructed</p> <p>15 on rather than you attended to listen to?</p> <p>16 A. No, these are public speaking and</p> <p>17 presentation instruction related. Those are all of</p> <p>18 the classes I taught. Public speaking engagement,</p> <p>19 NTA, ATO. All those are where I have been retained</p> <p>20 or hired to come in and speak about the subject of</p> <p>21 the use of force,</p> <p>22 Q. Now, Z don't notice any certifications,</p> <p>23 diplomas, degrees from accredited academic</p> <p>24 institutes, do you have any diploma, certifications</p> <p>25 or degrees from accredited academic institution?</p>	<p style="text-align: right;">Page 33</p> <p>1 at CSN?</p> <p>2 A. Na, CSN recognized the advanced specialist</p> <p>3 course.</p> <p>4 Q. And let's look at the calms that you have</p> <p>5 been involved in now. Page 11 and 12 of Exhibit 27</p> <p>6 A. Yes, sir.</p> <p>7 Q. The first one, Darren Mikum versus Brown.</p> <p>8 What role did you or are you claiming in that case?</p> <p>9 A. That was expert witness.</p> <p>10 Q. And in what area?</p> <p>11 A. Use of force, use of force and human</p> <p>12 factors, is what the report was focused on.</p> <p>13 Q. And use of force and human factors is the</p> <p>14 same focus of the report that you have provided for</p> <p>15 the defendants it the Zion 6388, correct?</p> <p>16 A. Yes, sir. The human factors and the human</p> <p>17 dynamics are the interplay between the two as they</p> <p>18 relate to the use of force applied.</p> <p>19 Q. And have you actually written a report in</p> <p>20 the Darren Brawn case?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Have you testified in this case?</p> <p>23 A. It was summary judgment.</p> <p>24 Q. The next case, Solinas Todd versus Citrus</p> <p>25 Heights, you provided a report in this case,</p>

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<p style="text-align: right;">Page 34</p> <p>1 correct?</p> <p>2 A. Report only, yes, sir.</p> <p>3 Q. You did not give deposition testimony or</p> <p>4 trial testimony?</p> <p>5 A. NO, air, that was a special case where the</p> <p>6 federal trial had already taken place and one of the</p> <p>7 stipulations was that a criminal charge was going to</p> <p>8 be added after the fact- And my report was about</p> <p>9 the facts of that case, as it was to be presented to</p> <p>10 the D.A. in the process of making the decision</p> <p>11 whether or not to criminally charge the officer</p> <p>12 after the fact. It was a strange case, but there</p> <p>13 was no testimony on my part.</p> <p>14 Q. And the report was, again, use of force?</p> <p>15 A. It was, yes, same.</p> <p>16 Q. Same human factors?</p> <p>17 A. Action, reaction time, visual principal,</p> <p>18 those types of things.</p> <p>19 Q. Do you know whether the officer was</p> <p>24 charged?</p> <p>21 A. He was not, the D.A. opted not to press</p> <p>22 charges.</p> <p>23 Q. Was your report supportive of the</p> <p>24 officer's version of events in the Citrus Heights</p> <p>25 case?</p>	<p style="text-align: right;">Page a6</p> <p>1 Apologies for the confusion. I am looking at that</p> <p>2 going, I don't know how.</p> <p>3 Q. Let me short circuit some of the questions</p> <p>4 that I would have asked. The cases that are listed</p> <p>5 on Page 11 and 12 of this exhibit, did you provide</p> <p>6 expert, an expert report or expert testimony on</p> <p>7 behalf of anyone other than the officer involved in</p> <p>8 the shooting?</p> <p>9 A- Not on the cases listed, no.</p> <p>10 Q. You said not on the cases listed, with an</p> <p>11 emphasis that suggests that there may be cases that</p> <p>12 are not listed, that have your involvement with some</p> <p>13 entity, other than the shooting police officer?</p> <p>14 A. I have been asked to review cases from the</p> <p>15 plaintiff's side. AM I have reviewed those cases,</p> <p>16 and I don't have them written down because they</p> <p>17 opted after my initial, and it's not a report that</p> <p>18 do, I do based on the existing information and the,</p> <p>19 I guess, the incident itself, I give a breakdown of</p> <p>20 where the objective report is going to land. And as</p> <p>21 I begin that process and I give that information to</p> <p>22 Plaintiff's counsel, they either opt to retain me or</p> <p>23 not retain me. And I have not been retained by</p> <p>24 Plaintiff's counsel as of yet. I have a potential</p> <p>25 case out of, I believe, it's Florida. It was very</p>
<p style="text-align: right;">Page 35</p> <p>1 A. I can't say that it was supportive because</p> <p>2 my report was simply taking the facts from the case</p> <p>3 and putting those together objectively. I did not</p> <p>4 do a scene visit on that particular case, I only had</p> <p>5 the statements from officers on the scene at the</p> <p>6 time, depositions from the original federal, trial.</p> <p>7 So it was, the report was indicative of the</p> <p>8 information that I had at the time. So I can't say</p> <p>9 it's in support of or against, it was simply an</p> <p>10 objective report,</p> <p>11 Q. In the Darren Mikum Versus Brown case, you</p> <p>12 were hired as an expert for the defense, correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And defense was Brown. Is Brown a police</p> <p>15 officer?</p> <p>16 A. No, air, Darren Mikum is the corrections</p> <p>17 officer that was involved in this use of force.</p> <p>18 Q. Who is Brown, do you know?</p> <p>19 A. He was the subject of the use of force.</p> <p>20 Q. And I am just trying to understand why the</p> <p>21 officer was suing Brown?</p> <p>22 A. You know what, that's just how the case</p> <p>23 was listed on the paperwork that I have, so I put it</p> <p>24 in that way- It was a lawsuit against the</p> <p>25 corrections facility in Las Vegas, Nevada.</p>	<p style="text-align: right;">Page 37</p> <p>1 vague, the attorney that called me on it, it's a</p> <p>2 criminal defense case involving an officer that used</p> <p>3 a taser, and in what appeared to be excessive amount</p> <p>4 of times. Without all of the information on the</p> <p>5 report I told him I can't tell you, but as an expert</p> <p>6 witness I am not about defense or offense, I am</p> <p>7 about an objective report. So based on that the</p> <p>8 plaintiff's counsel on that has agreed to send me</p> <p>9 the initial information, I have not received it yet.</p> <p>10 Q. okay. Las Vegas Police Protective</p> <p>11 Association case that you have listed on Page 11,</p> <p>12 did you provide a report or testimony in that case?</p> <p>13 A. Both,</p> <p>14 Q. Both, And again, this was a use of force</p> <p>15 and human factors report?</p> <p>16 A. Yes, sir,</p> <p>17 Q. Did this involve a shooting?</p> <p>18 A. No, sir.</p> <p>19 Q. What kind of force was used in this case,</p> <p>20 do you recall?</p> <p>21 A. I believe it was it was excessive use of</p> <p>22 hands, fists and feet. Sir, let me expand on that,</p> <p>23 LVPPA Association hired me- There were two officers</p> <p>24 involved. My objective report on the first officer</p> <p>25 did not have the objective information that was</p>

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<p style="text-align: right;">Page 38</p> <p>1 required for defense of that officer. So they</p> <p>2 reduced my involvement to the secondary officer, who</p> <p>3 was actually not involved in the use of force, but</p> <p>4 was a witness. And it had more to do with the</p> <p>5 forensic video evidence from body cams and the</p> <p>6 ability to focus attention and intervene in the use</p> <p>7 of force. So my involvement in that case was</p> <p>8 minimised based on my objective report of the</p> <p>9 original officer's use of force, which, well, it</p> <p>10 just didn't work out, my objective report was not</p> <p>11 supportive of defense.</p> <p>12 Q. Okay, I just want to backtrack. In the</p> <p>13 Mikum versus Brown case, that involved a shooting?</p> <p>14 A. No, sir, that was use of hands, fists and</p> <p>15 feet in a fist.</p> <p>16 Q. And Solinas was a tamer?</p> <p>17 A. Solinas was a shooting, but that was a</p> <p>18 report only.</p> <p>19 Q. Was there a decedent in that case?</p> <p>20 A. Yea, sir.</p> <p>21 Q. The second Les Vegas police protective</p> <p>22 association case that you have listed, P.O Rose?</p> <p>23 A. Yes, sir.</p> <p>24 Q. I assume Police Officer Rose?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 works together is that there are issues that happen</p> <p>2 within a use of force incident that create and</p> <p>3 define human factors and human behavioral science.</p> <p>4 So to speak about one, I have to speak to the other.</p> <p>5 So that's why my expertise in use of force ties in</p> <p>6 with my human factors expertise and how that</p> <p>7 interaction plays together.</p> <p>8 Q. So we have A John, which was a decedent</p> <p>9 and you were hired by the defense again in this</p> <p>10 case?</p> <p>11 A. Yee, sir,</p> <p>12 Q. The Rodarte versus Victorville case, what</p> <p>13 role did you play in this case?</p> <p>14 A. Expert witness, again, again, human.</p> <p>15 factors, action, reaction time.</p> <p>16 Q. Was there death in this case?</p> <p>17 A. Yes, sir.</p> <p>18 Q. A shooting death?</p> <p>19 A. Yes, sir, descendant was Rodarte.</p> <p>20 Q. The Rodriguez versus County of Riverside</p> <p>21 case, was that a death case?</p> <p>22 A. Yes, sir, also a shooting.</p> <p>23 Q. And what role did you or are you playing</p> <p>24 in this case?</p> <p>25 A. That case is settled and I was the expert</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Did this involve a shooting?</p> <p>2 A. No, sir.</p> <p>3 Q. What did this involve?</p> <p>4 A. Use of forceful retention, control holds.</p> <p>5 Q. The third Las Vegas Police Protection</p> <p>6 Association involving CO Smith?</p> <p>7 A. Female correction, sorry, female</p> <p>8 corrections officer, at the LVNPD Corrections</p> <p>9 Facility, and just simply an excessive use of force</p> <p>10 claim.</p> <p>11 Q. No Shooting?</p> <p>12 A. No shooting, sir.</p> <p>13 Q. Okay. The next case, A John versus</p> <p>14 Riverside County, did this involve a shooting?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Decedent?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And what was your role in this case or</p> <p>19 what was or is your role in this case?</p> <p>20 A. Expert witness.</p> <p>21 Q. Providing use of force again, with the</p> <p>22 human factors?</p> <p>23 A. Yes, and I need to explain that too</p> <p>24 because it sounds like there is several areas of</p> <p>25 expertise that I am covering. How this is, how this</p>	<p style="text-align: right;">Page 41</p> <p>1 witness, again in the same realm.</p> <p>2 Q. Did you provide a report in this case?</p> <p>3 A. I did, sir.</p> <p>4 Did you give deposition testimony?</p> <p>5 A. I believe I did on that one. I gave</p> <p>6 deposition testimony on Rodarte. I cannot be</p> <p>7 certain, sir, it's kind of blended together here,</p> <p>8 Q. Okay. So possibly?</p> <p>9 A. Possibly, yes. I completed the report.</p> <p>10 Q. The Kevin Young versus County of San</p> <p>11 Bernardino case, what was your role in that case?</p> <p>12 A. Again, expert witness, human factors and</p> <p>13 use of force concerning action, reaction times.</p> <p>14 There was no decedent in that case.</p> <p>15 Q. Did you give any deposition testimony in</p> <p>16 this case?</p> <p>17 A. I did, and testified.</p> <p>18 Q. You testified at trial?</p> <p>19 A. Yes, sir. I did not realize I have done</p> <p>20 so many cases.</p> <p>21 Q. Off the record.</p> <p>22 (Whereupon, an off the record</p> <p>23 discussion was held.)</p> <p>24 Okay, we left off at Kevin Young, you</p> <p>25 said you testified at trial in that case?</p>

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<p style="text-align: right;">Page 42</p> <p>1 A. Yes, sir.</p> <p>2 Q. Of the prior cases that we have talked</p> <p>3 about, correct, there were, there was no trial</p> <p>4 testimony on behalf?</p> <p>5 A. Rodarte, Carlos Rodarte was a trial.</p> <p>6 Q. So you gave trial testimony. You are</p> <p>7 qualified then as an expert in both those cases,</p> <p>8 Rodarte and Young?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did you face in either one of those cases</p> <p>11 a motion to disqualify you as an Expert?</p> <p>12 A. NO, sir. In Rodarte they had me on deck</p> <p>13 for testimony, and I never took the stand, so I was</p> <p>14 in the courtroom ready to take the stand and they</p> <p>15 ended up settling that.</p> <p>16 Q. So you never actually testified?</p> <p>17 A. I didn't get on the stand on that, Kevin</p> <p>18 Young, I was qualified as an expert witness.</p> <p>19 Q. And again no, there was no motion to</p> <p>20 disqualify you?</p> <p>21 A. No, sir, I believe that was Dale Oalipo,</p> <p>22 that was on that case.</p> <p>23 Q. And Young, was there a motion by the</p> <p>24 opposing side to strike any of your opinions?</p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page (14</p> <p>1 case involve a decedent?</p> <p>2 A- Yes, it did.</p> <p>3 Q. Did you provide an, and you provided an</p> <p>4 expert report?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And again, an expert report on use of</p> <p>7 force and human factors, human dynamics?</p> <p>8 A. That's correct.</p> <p>9 Q. Did you testify at a deposition or trial?</p> <p>10 A. No, sir, that also settled.</p> <p>11 Q. Aaron Forgash?</p> <p>12 A. Yes.</p> <p>13 O. versus City of Riverside, did this case</p> <p>14 involve a decedent?</p> <p>15 A. It did.</p> <p>16 Q. Did you provide an expert report?</p> <p>17 A. I did.</p> <p>18 Q. And did you provide testimony at a</p> <p>19 deposition or at trial?</p> <p>20 A. No, sir, and this report was based in</p> <p>21 forensic video evidence regarding the use of force,</p> <p>22 which was a shooting death.</p> <p>23 O. Did you review reports in this or in the</p> <p>24 Forgash case or just the video?</p> <p>25 A. Just the video, sir.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. Let's look at, let's talk about Sawyer</p> <p>2 versus City of Riverside, what role did you have</p> <p>3 playing in that case?</p> <p>4 A. Again, that was, it's the same use of</p> <p>5 force, human factors, human behavioral science.</p> <p>6 O. Did you provide a report?</p> <p>7 A. I did,</p> <p>8 And was there a decedent in this case?</p> <p>9 A. There was.</p> <p>10 Shooting decedent?</p> <p>11 A. Yes, sir.</p> <p>12 O. Did you testify at a deposition and/or an</p> <p>13 open court?</p> <p>14 A. No, sir, that was settled.</p> <p>15 Q. Hockerday versus City of Oxnard?</p> <p>16 A. Yes, sir.</p> <p>17 O. Did this involve a death?</p> <p>18 A. It did, sir.</p> <p>19 Q. And you provided an expert report on use</p> <p>20 of force and human factors, human dynamics?</p> <p>21 A. Yes.</p> <p>22 Q. Did you testify in deposition or in trial</p> <p>23 in this case?</p> <p>24 A. No, sir, that also settled prior to trial.</p> <p>25 O. Centennial versus City of Fresno, did this</p>	<p style="text-align: right;">Page 45</p> <p>1 O. The last case you have in your list is</p> <p>2 Rodriguez Ayala versus City of Riverside, did this</p> <p>3 involve a death?</p> <p>4 A. No, sir.</p> <p>5 O. Did it involve the use of force?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And claim of excessive use of force?</p> <p>8 A. It involved a shooting.</p> <p>9 O. You provided a report in this case?</p> <p>10 A. Yes, sir, I provided actually two full</p> <p>11 reports, my initial report and basically a response</p> <p>12 to interrogatories.</p> <p>13 Q. Okay. Did you provide testimony in this</p> <p>14 case?</p> <p>15 A. NO, sir, it was a close one, just about</p> <p>16 ready to and they settled that case, The case</p> <p>17 that's not listed on this that is listed on your</p> <p>18 version on the hard drive is Podia versus, I believe</p> <p>19 it's, Oxnard or Riverside, without having it in</p> <p>20 front of me I can't remember. That was the taser</p> <p>21 case where there was no decedent, no shots fired.</p> <p>22 Q. Did you spend any time working in</p> <p>23 California?</p> <p>24 A. No, sir, performing as drummer, yes,</p> <p>25 plenty of time, but not as a police officer. And</p>

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<p style="text-align: right;">Page 46</p> <p>1 sir, I need to add in the cases that are not listed 2 here ate the cases I am handling for my Police 3 Department internally. Internal investigations, 4 which are not part of my private company's work, as 5 the use of force investigator, and basically in 6 those cases, although I might identify issues on 7 those shootings and be the catalyst for discipline, 8 which happened on a number of occasions, they are 9 not listed on this case load. 10 Q. Information from those cases would not 11 necessarily be information that you could talk about 12 publically? 13 A. Correct, sir, yes, sir. 14 Q. And you don't profit in any way 15 financially from the work you do in the cases that 16 are internal to the department? 17 A. Not outside of my salary, sir, yes, sir, 18 that's my task. 19 Q. I wasn't suggesting anything? 20 A. No, I got you. 21 Q. I am going to show you what we will mark 22 am Plaintiff's RAhibit 1. 23 (Exhibit 1 was marked for 24 identification.) 25 Would you identify plaintiff's</p>	<p style="text-align: right;">Page 48</p> <p>1 have google alert set up on all the police 2 shootings. 3 Q. To it was a media thing? 4 A. Yes, I was only aware of the shooting 5 through normal channels. 6 Q. No one from the Zion Police Department 7 called you? 8 A. No. 9 Q. Okay. Got you. Did you ask anyone for 10 any other information prior, other than what is on 11 this thumb drive and which is partially listed on 12 the Page 3 and 4 of Exhibit 1 for additional 13 information? 14 A. The only information that would have been 15 necessary for my opinions and there was nothing else 16 available that's not on the hard drive or the disk 17 that I gave. 18 Q. So after you got the thumb drive, I don't 19 want to misstate what you just said, but did you ask 20 the lawyers who hired you or anyone else to give you 21 additional information? 22 A. Not that I recall, we have had discussions 23 about the case. 24 Q. Don't tell me what you said? 25 A. No, no, I am aware of the rule, but I</p>
<p style="text-align: right;">Page 47</p> <p>1 Exhibit 1, please? 2 A. This is my case review and analysis 3 experts opinion for Justus Howell versus City of 4 Zion, et at. 5 Q. At Page 2, Page 3, rather of Exhibit 1, 6 going over to Page 4, you list documents that you 7 reviewed and you have handed me today a thumb drive 8 with other documents that include this listing? 9 A. Yes, those documents are in these file 10 names on this document. 11 Q. Okay. So the only information that you 12 had prior to preparing your report is on the thumb 13 drive you gave me? 14 A. Other than being aware of the case, I 15 didn't. 16 Q. What do you mean by other than being aware 17 of the case? 18 A. I didn't get the invitation to work this 19 case until sometime after the case, after it had 20 happened. So I was aware that this shooting 21 occurred in Chicago prior to getting the report, but 22 I had no information about it. 23 Q. How were you aware of the case prior to 24 getting it? 25 A. It's a police shooting, and I am just, I</p>	<p style="text-align: right;">Page 49</p> <p>1 don't recall specifically any item that was missing. 2 Q. I am just? 3 A. Hold on, yes, no, I am, I didn't mean to 4 cut you off. I did ask for, if there was any 5 available for me to view, any forensic, any corners, 6 forensic information that was available, and I did 7 not get any of that, other than what was already 8 existing. 9 Q. Okay. 10 A. Just protocol information on my side, 11 anything that I receive goes into a particular file 12 and that is a copy of the entire file. 13 Q. Okay. I am going to mark as Plaintiff's 14 Exhibit 3 a screen shot of the directory structure 15 of the thumb drive that you just gave me, And I am 16 going to show that directory structure to you now. 17 Is that an accurate directory listing of the files 18 that are on the thumb drive? 19 (Exhibit 3 was marked for 20 identification.) 21 A. Yes, sir. 22 Q. Okay. And may I ask you to open each of 23 the folders on that directory structure and tell me 24 whether the documents in those folders are the only 25 documents that are in the folder as presented on the</p>

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<p style="text-align: right;">Page 50</p> <p>thumb drive?</p> <p>2 MR. DICIANIE: Are we going to be able to</p> <p>3 print this?</p> <p>4 MR. ODIM: Yea, I am printing this. Well,</p> <p> I have just done the screen shot, I will send</p> <p>6 the e-mail to them and she will print it.</p> <p> MR. DICIANI! Okay.</p> <p>9 MR. 'DIM: Off the record.</p> <p>9 (Whereupon, an off the record discussion</p> <p>10 was held.)</p> <p>11 Q. You refer to the enhanced video at tab</p> <p>12 number six on Page 37</p> <p>13 A. Yes, sir.</p> <p>14 Q. Did you, is tab number six the enhanced</p> <p>15 version of tab number 12?</p> <p>16 A. To my knowledge, yes, sir. Those are the</p> <p>17 way I received the videos, that's the actual title</p> <p>18 on the video. So I received the enhanced version,</p> <p>19 which included a time frame and frame rate at the</p> <p>20 bottom of the video, which is what I used in the</p> <p>21 process of.</p> <p>22 Q. So you didn't do any enhancement?</p> <p>23 A. NO, sir.</p> <p>24 Q. In this process?</p> <p>25 A. No, because even the video that's listed</p>	<p style="text-align: right;">Page 52</p> <p>1 doesn't need to streamline the copy. So now, and</p> <p>2 this is unless that video is the rod data from the</p> <p>3 device, which is very hard to come by, you are</p> <p>4 getting a copy of it, and that copy is a different</p> <p>5 compression rate and things happen to the video in a</p> <p>6 compression rate which is a very extensive process,</p> <p>7 but in this case neither the enhanced video or the</p> <p> original video is actually original, it's a copy of</p> <p>9 the original.</p> <p>10 Q. So that's where I am going, so the word</p> <p>11 original is really not an accurate descriptor of the</p> <p>12 tab 12?</p> <p>13 A. Exactly, and that's the video that was</p> <p>14 supplied to me.</p> <p>15 Q. To you?</p> <p>16 A. And that's the video that every one has,</p> <p>17 so it's what is available to us.</p> <p>18 Q. Is the codex far the enhanced video</p> <p>19 different from the codex on the original video</p> <p>20 supplied to you?</p> <p>21 A. That I didn't check, The enhanced video</p> <p>22 is not enhanced video content wise, the enhanced</p> <p>23 video is put into a 30 per second rate for timing</p> <p>24 purposes, and a timer was added. That in my opinion</p> <p>25 is what is enhancing that video because there i\$ no</p>
<p style="text-align: right;">Page 51</p> <p>1 as the Original video is not the original video, as</p> <p>2 far as digital recording goes, It's a copy of a</p> <p>3 video that was originally given to Plaintiff, but I,</p> <p>4 in my forensic video side, there is things that you</p> <p>5 look for, for original video. So original video is</p> <p>8 s. original rod digital data, which doesn't exist in</p> <p>7 either of these videos.</p> <p> Q. Am I correct in saying that copying of</p> <p>9 digital data from source A to source B produces an</p> <p>10 exact same copy?</p> <p>11 A. You are not correct in saying that.</p> <p>12 Q. That's why I asked it that way?</p> <p>13 A. Yes.</p> <p>14 Q. So how is it that you are able to tell</p> <p>15 that the original video listed at tab 12 is not, is</p> <p>16 not the same as the source video from which it was?</p> <p>17 A. I didn't do a full forensic analysis of</p> <p>18 the video, only the content of the video, but the</p> <p>19 compression rate is different and there is data</p> <p>20 that's missing, and it's impossible to look at a</p> <p>21 video and identify GOP's which is a group of</p> <p>22 pictures, which can be anywhere from 10 to 30. When</p> <p>23 you have a digital copy, it's a different</p> <p>24 compression rate, which entails a different code and</p> <p>25 in that process digital video gets rid of what it</p>	<p style="text-align: right;">Page 53</p> <p>1 enhancement in the video or in the clarity, the</p> <p>2 enhancement in the norm al state of the word is not</p> <p>3 occurring on that enhancement video, it's simply</p> <p>4 enhanced for the forensic evidence that's displayed</p> <p>5 on it time wise.</p> <p>6 Q. So there is no codex that's sampled for a</p> <p>7 particular purpose to get to that enhancement?</p> <p>8 A. No, that is not what is.</p> <p>9 Q. The enhancement is a package, it's how the</p> <p>10 frames are?</p> <p>11 A. On this particular video, that's what the</p> <p>12 enhancement is, correct.</p> <p>13 Q. The enhancement was an MP4 or?</p> <p>14 A. I think so, and I didn't put a lot of</p> <p>15 emphasis on how it was packaged or how it was copied</p> <p>16 or how it was transferred, I just needed to</p> <p>17 understand for my review of the video that it wasn't</p> <p>18 original and why certain things were happening in</p> <p>19 the video that I was observing- As I reviewed and</p> <p>20 analyzed the contents of the video, which means the</p> <p>21 movement and interaction and the interplay between</p> <p>22 the individuals on the video. So my knowledge in</p> <p>23 forensic video analysis was helpful to me to</p> <p>24 understand what I was looking at as a use of force</p> <p>29 and human behavioral expert to identify what I am</p>

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<p style="text-align: right;">Page 54</p> <p>1 viewing content wise, if you understand the 2 difference between the two.</p> <p>3 Q. I do.</p> <p>4 A. Thank you.</p> <p>5 Q. Looking at Page 4 of thibit 1?</p> <p>6 A. Yes, sir.</p> <p>7 It reads, I am informed and believe that I 8 have received all disclosures and discovery 9 responses produced in this case. What do you Mean 10 by that?</p> <p>11 A. Meaning that I have everything that I need 12 from defense in order to complete my objective 13 report. In some cases there are things that are 14 withheld for whatever reason. I don't understand 15 the all the rules, but in this case I was informed 16 that this is the material that's available to ma and 17 I trust that is the material that is available to 18 me.</p> <p>19 Q. You have used the phrase, objective report 20 a couple of times or more than a couple of times 21 during this session?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what do you mean by Objective, when 24 you u29 it in the phrase objective report?</p> <p>25 A. The objective report is simply based not</p>	<p style="text-align: right;">Page 56</p> <p>1 perusing the report for truthfulness issues on the 2 information that I only have the officer's 3 statement. I can only take what the statement is, I 4 can't see into the statement, I can't refute 5 information from that statement, I have to take that 6 evidence because I wasn't there. I have to take 7 that statement and use that statement in my 8 objective report. So yes, there are places where 9 that crosses the line. In many case, and especially 10 in the case of an officer giving his testimony, that 11 testimony in some cases is subjective because that 12 officer is giving you their perception of what they 13 believe is the truth in that critical incident. So 14 the difference between truth and fact may very well 15 be that the officer's perception at the moment on 16 what has hooked his or her attention is now the 17 truth that that officer believes happened, which may 18 vary from the fact at some point. And so there is a 19 subjective side to the testimony, but I only have 20 that to work with. I did not interview the 21 officers, I didn't get any information refuted from 22 the officer in the report, I never discussed those 23 with anyone outside of me getting the clarification 24 and then creating my own report, objectively, based 25 on the information supplied.</p>
<p style="text-align: right;">Page 55</p> <p>1 on my opinion of what the facts are, but what the 2 facts are that I am seeing in the video and any 3 information in the reports. Meaning, when I am 4 doing my report I can only take the information 5 that's available to me and create my opinion, which 6 could be deemed as subjective, but from objective 7 information in the report. So I guess in essence 8 what that means is that from my standpoint, 9 regardless of when, whether I am creating a report 10 for a defense or a plaintiff, the report is going to 11 read the same way, because it's based on the factual 12 evidence that I have been given. The statements 13 that I have been given and my opinions come from 14 those facts and my experience in the field of human 15 factors, human behavioral science, police procedure, 16 use of force, things of that nature.</p> <p>17 Q. Is it fair to say that deposition 18 testimony of an officer presented to you objectively 19 on a piece of paper?</p> <p>20 A. Yes.</p> <p>21 Q. With ink on it, is different from whether 22 or not the testimony of the officer is in fact 23 objective?</p> <p>24 A. Yes, sir, and if I have actually a caveat 25 to that at the back of this report, that I am not</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. So you are not using objectives synonymoua 2 with true facts, you are using objective in the 3 sense of you're having received a certain data set, 4 which you accept as accurate for the purposes of 5 doing your report, does that make sense?</p> <p>6 A. It does, and it's that is a double edge 7 sword, as well. Accuracy, again, an officer's 8 perceptions or their subjective view of the truth, 9 which may differ from the fact has to be compared 10 through out the entire case, where there is a common 11 thread that creates a probable occurrence. So I am 12 taking, again, the facts as they are given to me by 13 the defendants and I am creating my report, based 14 off of those. Now, I can't make the determination 15 and my opinions read as such, that there are 16 determinative factors that are without variability, 17 so my opinions will encompass that as well.</p> <p>18 Q. Okay. With number 27, when you say I am 19 not tasked with identifying potential truthfulness 20 issues, it's at Page 38, the last page?</p> <p>21 A. Yes, that's the one I was going to turn 22 to.</p> <p>23 Q. Let me start again. Paragraph 72 reads in 24 part "I am not tasked with identifying potential 25 truthfulness issues in the statements reviewed and</p>

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<p style="text-align: right;">Page 58</p> <p>1 do not offer any opinion on the truthfulness on the 2 interviews or the accuracies of the transcribed 3 documents that I reviewed. This is what you mean 4 by you're taking as objective for the purpose of 5 your work, the statements made and the statements 6 presented in the documents given to you? 7 A. Correct, sir. And where the connective 8 tissue is in that statement is that I am not 9 creating my reports specifically off of one 10 officer's statement. I am taking all of the 11 collective evidence, whether it be forensic evidence 12 from the scene, what is usable evidence from the 13 video. And my opinions come from a combination of 14 what the officer's perception of the fact was and 15 the factual data that exists to me in the form of 16 video or other context and create my report from all 17 of the evidence, where I am not being tasked to 18 identify the officer's truthfulness in this case, 19 simply identifying the fact pattern as perceived by 20 the officer. 21 Q. Okay. Do you recall the testimony of 22 Gildea in this case and the testimony of Hill in 23 this case about where Hill was located when the 24 shots were fired? 25 A. I have, I have that in my report to draw</p>	<p style="text-align: right;">Page 60</p> <p>1 A. It appears to be, but it also appears that 2 some things are not on this print out, unless it's 3 in another folder. Yes, sir, this is. Does it 4 appear that things look as they do on the hard drive 5 to you here? 6 Q. Well, for instance the scene photos are 7 broken down, so that file has not been opened. 8 A. Right. 9 Q. And then the second page, the top, the 10 crime scene, photos, secondary set, that file has 11 not been opened? 12 A. Right. 13 Q. So they are quite a few? 14 A. Yes, and that's the way this is set up. 15 So there is not 35 pages of, so it's listed in 16 subsets and all of those thumb drives that I 17 received in reference to this case are listed here 18 and all of those subsets are listed on your hard 19 drive so Officer Gildea's deposition, the Hill 20 deposition, those were all major files inside of 21 that hard drive, which are all listed in directory 22 form. And I am learning from this little piece of 23 this encounter that's probably not the best way to 24 list it on these sheets. 25 Q. Okay. Let's go back to that line of</p>
<p style="text-align: right;">Page 59</p> <p>1 that out of thin air is asking a lot of me. 2 Q. Look at paragraph, your paragraph numbered 3 16? 4 A. Do you have a page number? 5 Q. Page 24. 6 A. Okay. Page 24, Paragraph 16. 7 Q. Yes, I am sorry, did I say 16, I am sorry 8 17. 9 MR. DICIANNI: Page 17. 10 MR. ODIM: Off the record. 11 (Whereupon, an off the record discussion 12 was held.)? 13 A. I have paragraph 17, Page 9. 14 Q. Gildea, you report that Gildea even that 15 he was at a particular place when he heard the shots 16 fired. 17 18 (Exhibit 3 was marked for 19 identification.) 20 Okay, Officer Borden, I am showing 21 you what has been marked as Exhibit 3? 22 A. Yes. 23 Q. Would you look at that and confirm that 24 this is a directory listing of all the documents on 25 the thumb drive you gave me?</p>	<p style="text-align: right;">Page 61</p> <p>1 questioning regarding officer Gildea's testimony and 2 officer Hill's testimony. You recall, do you not, 3 that Officer Hill says that he was on the driveway? 4 A. In the area of the driveway, yea. 5 Q. When he did the shooting? 6 A. Yea- 7 Q. That officer Gildea says that he was at a 8 location when he first heard the shooting, which 9 would have made it impossible for Hill to be where 10 he says he was when the shots occurred, do you 11 recall that? 12 A. Yes, I do. Officer Gildea, stated that he 13 was at the southeast corner of the building, and 14 again, that, well let me let you continue asking 15 these questions. 16 Q. So those two different statements from two 17 different officers conflict, correct? 18 A. Yes. 19 Q. Why did you not accept Gildea's version as 20 the accurate statement of where Hill would have been 21 when the shooting occurred as opposed to accepting 22 Hill's version? 23 A. Good question. When I say that I take the 24 statements from each officer as the subjective 25 version of what they recall, understanding that</p>

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<p style="text-align: right;">Page 62</p> <p>1 there is many other focuses of attention on this and 2 I cannot sit here and tell you what those focuses of 3 attention were because I wasn't there, I wasn't in 4 their head, knowing what they know. But there is 5 evidence on the video that supports the fact that 6 certain things happened at certain times on the 7 video. So regardless of where, and this is 8 regardless of where Hill states that he shot as 9 opposed to where Officer Gildea says he heard shots 10 fired and where Hill could have been at that time, 11 the evidence reflected on the video that we are 12 viewing and what is available to us on video is the 13 information that I am using to tie the statements 14 together. And in those statements there were two 15 shots fired, two shots were heard, two shots were 16 fired, and there was a resulting death. Those are 17 the facts, as we know them. Where officers were at 18 when those shots were fired becomes almost ancillary 19 to the fact that shots were fired and that Justus 20 Howell was hit and killed with shots fired by 21 officer Hill. That is the fact pattern that exists. 22 witnesses were constrained waives and focuses of 23 attention and recall, and the way that we formulate 24 memories, down to the chaotic event of the way sound 25 travels and echo, and all of these different things.</p>	<p style="text-align: right;">Page 64</p> <p>1 are telling a lie for the sake of lying. A lie is a 2 different stipulation than the truth as perceived, 3 differs from fact. 4 Q. Well, you don't know whether they are 5 telling the truth as perceived, Dither Gildea or 6 Hill? 7 A. I don't. I don't know that they are 8 telling the truth, and I don't know that they are 9 telling a lie, but as it attaches itself to the 10 video evidence that I have available to me, the 11 statements coincide, generally, and the conson 12 thread is that two shots were fired by Officer Hill 13 at a location behind, to some extent, Justus Howell, 14 the round struck him and he went darn and he was 15 deceases. 16 Q. Wouldn't human dynamics, as you talk about 17 in your report, be different if Officer Hill or the 18 human dynamic analysis different if Officer Hill was 19 shooting from a distance as opposed to shooting when 20 he was standing over? 21 A. I am not sure I understand the question, 22 is it a statement or question, I am sorry? 23 Q. Would the human dynamic analysis, might 24 the human dynamic analysis conclude a different 25 conclusion if Officer Hill had shot Howell from a</p>
<p style="text-align: right;">Page 63</p> <p>1 There is a substantial difference in the position of 2 Officer Gildea and his statements and the position 3 of Officer Hill. But the evidence that is reflected 4 on the video puts together a probable chain of 5 events that ended up in Officer Hill's shooting 6 Justus Howell, resulting in his death. So that's 7 what I am looking at. The statements that we are 8 looking at from Gildea and the difference between 9 Officer Hill, there is a difference and there is no 10 explanation for that difference. It doesn't mean 11 that either one of them are lying, it means that 12 their acceptance of what they believe is the truth 13 in this chaotic critical mass incident where 14 consequences of life and death are occurring that 15 that's what they remember, 16 Q. But it doesn't mean that they are, that 17 one or the other is telling the truth, does it? 18 A. It's their telling the truth the way they 19 remember it. 20 Q. Na, well, do you know that for a fact? 21 A. I do know that the officers are giving 22 their account of this incident. 23 Q. But you don't know whether either Gildea 24 or Hill is telling a lie? 25 A. It's impossible for me to say whether they</p>	<p style="text-align: right;">Page 65</p> <p>1 distance as opposed to shooting Howell almost 2 standing over him? 3 MR. DICLANNI: I will object to the form 4 of the question. You can answer. 5 A. Yes, I am a little lost on the form of the 6 question. The obvious answer is, yes, the dynamic 7 would change if there was conclusive forensic data 8 that said or that reflected that he was standing 9 over Justus Howell when he fired his weapon, it 10 would be a different dynamic, yes. 11 Q. Do you know how far Officer Hill says he 12 was from Justus Howell, well, let me re-ask that. 13 Does Officer Hill ever say how far he was from 14 Justus Howell when he shot? 15 A. I don't recall a specific distance, I only 16 recall that he stated that there were a series of 17 turns and I can read it from the report, a series of 18 turns, but not being there and having a triangular 19 sector to get an actual distance, I don't remember 20 him saying exactly how far he was. 21 Q. Did you arrive at some -- 22 A. I never stated -- 23 Q. Consideration of how far Hill was when he 24 shot Howell? 25 A. No, I never make a statement about the</p>

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<p style="text-align: right;">Page 66</p> <p>1 distance between the two when shots are fired.</p> <p>2 Q. But you would agree that if Hill was, that</p> <p>3 the human dynaadas would be different, the farther</p> <p>4 away Hill was from Howell when he shot?</p> <p>5 MR. DICIANNI: I will make the same</p> <p>6 objection to the form of the question.</p> <p>7 MR. DIM: Okay.</p> <p>8 A. That's a broad straw question. The human</p> <p>9 dynamic, I can't predict human dynamics based on</p> <p>10 different evidence than I see. I can only an</p> <p>11 analysis the human dynamics that exist in the</p> <p>12 evidence that I am looking at, am I convoluting that</p> <p>13 too much?</p> <p>14 Q. No, not anymore than my question. Let me</p> <p>15 ask it this way- what factor does distance have in</p> <p>16 your opinions and conclusions about the Hill</p> <p>17 shooting of Howell?</p> <p>18 A. Distance.</p> <p>19 MR. DICIANNI: I am going to object to</p> <p>20 form of the question.</p> <p>21 A. I can tell you that distance in and of</p> <p>22 itself only creates a potential for a longer</p> <p>23 decision making process, but that again that</p> <p>24 decision making process that is occurring during</p> <p>25 this critical incident is happening and it's nearly</p>	<p style="text-align: right;">Page 68</p> <p>1 feet, say the distance that you and I are. A flash</p> <p>2 shoot, where you are drawing your weapon and firing,</p> <p>3 you are literally punching your weapon out onto</p> <p>4 target at the same time you are pulling a trigger,</p> <p>5 so it's a very rapid process because distance isn't</p> <p>6 an issue in the decision to be accurate, it's going</p> <p>7 to be accurate based on your ability to use that</p> <p>8 weapon. Now, you add distance and that becomes now</p> <p>9 an issue where the weapon comes out and you have to</p> <p>10 take time to aim, it's a very simple concept. So</p> <p>11 that part of the dynamic, and remember the human</p> <p>12 dynamics, again, I can't create human dynamics and</p> <p>13 try to put them into the template, I have to look</p> <p>14 into the template an extract the dynamics that</p> <p>15 exist. There is distance at all times between</p> <p>16 Officer Hill and Justus Howell during this video up</p> <p>17 to a certain point where Justus Howell goes down.</p> <p>18 Q. You don't know what that distance was?</p> <p>19 A. I don't, I don't know that distance, it's</p> <p>20 chaotic, there is movement involved, all we have is,</p> <p>21 if we knew the distance of the driveway, and I</p> <p>22 didn't take time to get a, first of all a seen</p> <p>23 visit, where I can get a distance of the driveway</p> <p>24 and make calculations as to approximately how far,</p> <p>25 that never happened. But it also doesn't change my</p>
<p style="text-align: right;">Page 87</p> <p>1 impossible to make a determination where decisions</p> <p>2 are being made. If there is distance of any sort</p> <p>3 between the shooter and the subject, what comes into</p> <p>4 play is distance creating an issue of time and a</p> <p>5 additional time to be accurate, or to ensure that</p> <p>6 accuracy is in place, And that's what Fitt's law</p> <p>7 is, it simply says that distance creates in</p> <p>8 potential situations additional time to gather your</p> <p>9 target. And these are tests that are done in</p> <p>10 controlled environments, most of them on a computer.</p> <p>11 It's simply a concept that distance can potentially</p> <p>12 create more time in the decision making process.</p> <p>13 Q. Would that be the only factor that</p> <p>14 distance would have in your consideration of the</p> <p>15 facts in this case?</p> <p>16 A. As far as the human factors?</p> <p>17 Q. Yes.</p> <p>18 A. The distance is not so much a part of the</p> <p>19 human factor, the factors that we are talking about</p> <p>20 is the interplay between two subjects and a critical</p> <p>21 incident. So distance has that effect. It has the</p> <p>22 potential to create a longer decision making</p> <p>23 process. And when I say longer, I am talking about</p> <p>24 milliseconds. As an example, it's very quick to</p> <p>25 draw and shoot at a target that's three to five</p>	<p style="text-align: right;">Page 89</p> <p>1 opinions on the way that distance affected the</p> <p>2 interplay between the two.</p> <p>3 Q. How would you know that measurements that</p> <p>4 you didn't take wouldn't affect your opinion?</p> <p>5 A. Because what I am seeing on the video</p> <p>6 exists, the shots were fired and the shots were</p> <p>7 accurate, and there is a window of time in there</p> <p>8 that the decision had to be made for those shots to</p> <p>9 be fired. So I can only take what I see and what</p> <p>10 statements I have to collectively come up with what</p> <p>11 is the most probable fact pattern.</p> <p>12 Q. But you don't see the distance on the</p> <p>13 video?</p> <p>14 A. You see distance, you don't see the</p> <p>15 distance.</p> <p>16 Q. What is your consideration of the distance</p> <p>17 that you see, how many feet?</p> <p>18 A. I can't make just a guess about that, that</p> <p>19 would be irresponsible, but that distance doesn't</p> <p>20 affect my opinion that shots were fired in that</p> <p>21 window of time-</p> <p>22 Q. I understand. But if you had gone to the</p> <p>23 scene you would have played measurements, correct?</p> <p>24 A. If I had been at the scene, yes.</p> <p>25 Q. And would you have made measurements in</p>

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<p style="text-align: right;">Page 70</p> <p>1 feet and yards?</p> <p>2 A. Yes, and I would have, had that been</p> <p>3 important to my opinions, but it wasn't.</p> <p>4 Q. And the reason distance and feet and yards</p> <p>5 is not important to your opinion is precisely what?</p> <p>6 A. It's just, it doesn't change the fact that</p> <p>7 shots were fired and Justus Howell was hit</p> <p>8 accurately with those two rounds and that he went</p> <p>9 down in a specific location, which is depicted in</p> <p>10 the photographs of the scene. So an exact footage</p> <p>11 isn't going to change any of those facts.</p> <p>12 Q. Okay.</p> <p>13 A. And allow me to continue just for a</p> <p>14 moment, The amount of feet between the two doesn't</p> <p>15 change any of the facts that this occurred, and it</p> <p>16 doesn't affect the ultimate decision, in my opinion,</p> <p>17 to use deadly form. The feet in distance doesn't</p> <p>18 apply to that opinion. Had he been any closer or</p> <p>19 any farther away, by one foot or five feet, because</p> <p>20 I can give you, I can give you a guess, but that</p> <p>21 would be within plus or minus ten to 15 feet, but</p> <p>22 that ten to 15 feet doesn't make the difference in</p> <p>23 the fact pattern I derived.</p> <p>24 Q. You used the phrase accurately, how do you</p> <p>25 know that Hill was aiming to kill?</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Okay. And if he didn't say he was firing</p> <p>2 two rounds to stop Justus Howell, right, then you</p> <p>3 are making an assumption that he was shooting to hit</p> <p>4 Justus Howell?</p> <p>5 A. No, the police procedure, my experience in</p> <p>6 police work and an officer of the law involved in a</p> <p>7 critical incident will never fire their weapon to</p> <p>8 not hit someone.</p> <p>9 Q. I am not talking about the generalities, I</p> <p>10 am talking about this specific officer in this</p> <p>11 specific situation, and I am asking you to put aside</p> <p>12 what you generally assume or know or is policy and I</p> <p>13 am asking you, do you know for a fact what this</p> <p>14 officer's intention was, no, do you know for a fact</p> <p>15 that this officer's intention was to hit Justus</p> <p>16 Howell with his bullets?</p> <p>17 Yes.</p> <p>18 Q. And you know that because Officer Hill</p> <p>19 said so?</p> <p>20 A. officer Hill said yes, that he feared for</p> <p>21 his life, he drew his weapon and he shot alstus</p> <p>22 Howell.</p> <p>23 Q. I am not asking whether he shot?</p> <p>24 A. That's what he stated, I can only tell</p> <p>25 you.</p>
<p style="text-align: right;">Page 72</p> <p>1 A. I don't know that he was aiming to kill, I</p> <p>2 only know that he was aiming to hit Justus Howell.</p> <p>3 Q. How do you know that?</p> <p>4 A. Because that's what his statements are.</p> <p>5 Q. He said he was aiming to hit?</p> <p>6 A. He feared for his life and used deadly</p> <p>7 force to stop Justus Howell,</p> <p>8 Q. But you are making an assumption that he</p> <p>9 was shooting to kill?</p> <p>10 A. No, I didn't say shooting to kill.</p> <p>11 Q. Okay. You are making an assumption that</p> <p>12 he was shooting to hit Howell?</p> <p>13 A. Absolutely making that an assumption</p> <p>14 because when an officer fires his weapon, at least</p> <p>15 procedurally speaking, when an officer draws his</p> <p>16 weapon and fires it, the intention is to hit the</p> <p>17 target.</p> <p>18 Q. But you don't know that was his intention?</p> <p>19 A. Yes, I do.</p> <p>20 Q. You are assuming?</p> <p>21 A. No, it is definitively his intention,</p> <p>22 Q. How do you know that?</p> <p>23 A. Because he stated he drew his weapon, his</p> <p>24 weapon was drawn, he saw a deadly threat and he</p> <p>25 fired two rounds to stop ilustus Howell.</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. No.</p> <p>2 MR. DICIANNI: Let's get a question and</p> <p>3 then an answer.</p> <p>4 Q. I am not asking you whether he drew his</p> <p>5 weapon.</p> <p>6 A. Okay.</p> <p>7 Q. I am not asking you whether he feared for</p> <p>8 his life?</p> <p>9 A. Okay.</p> <p>10 Q. I an not asking you whether he pointed his</p> <p>11 gun at Juntua Howell?</p> <p>12 A. Okay.</p> <p>13 Q. I an asking you whether or not you know</p> <p>14 for a fact that when he drew his weapon and feared</p> <p>15 for his life that he was airing to hit Justus Howell</p> <p>16 with his gun with his weapon?</p> <p>17 A. Yes, definitively.</p> <p>18 Q. And you know that not because Hill said</p> <p>19 that?</p> <p>20 A. Yes, that's because of his statements.</p> <p>21 Q. He didn't say that he was airing to shoot</p> <p>22 Jtatus Howell, did he?</p> <p>23 A. I don't remember exactly what he said.</p> <p>24 Q. You are, in fact, making an assumption</p> <p>25 about his intention at any time, isn't that what is</p>

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<p style="text-align: right;">Page 74</p> <p>1 happening here?</p> <p>2 A. NO.</p> <p>3 Q. wouldn't distance matter here if in</p> <p>4 determining whether or not Hill was telling the</p> <p>5 troth about where he was when he shot Howell,</p> <p>6 wouldn't it matter?</p> <p>7 MR. DICIANI: I will object.</p> <p>8 Q. Wouldn't it matter to your assessment of</p> <p>9 whether or not to agree with Hill that Hill was</p> <p>10 standing on the driveway when he shot Howell?</p> <p>11 A. Can you refine the question for me,</p> <p>12 counsel, I am sorry?</p> <p>13 Q. If Hill was not, if Hill, was closer to</p> <p>14 Justus Howell, when he fired his shots, which is the</p> <p>15 caaculuan that you would have to draw if Gildea's</p> <p>16 version of what happened is accurate. wouldn't that</p> <p>17 matter in your consideration of whether or not to</p> <p>18 believe Hill's version?</p> <p>19 A. I consider both statements in this and</p> <p>20 then I did a full analysis of the contents of the</p> <p>21 video and the interplay between human beings</p> <p>22 reflected on digital video. So the statements that</p> <p>23 are made are perceptions that the officers recall</p> <p>24 and made statements about. The evidence that is</p> <p>25 reflected on the video is the facts, as they</p>	<p style="text-align: right;">Page 76</p> <p>1 change what happened on the video. It can change</p> <p>2 what the perception of where Officer Hill was at.</p> <p>3 Officer Hill's statement may not even be very</p> <p>4 accurate, but what is reflected on the video cannot</p> <p>5 he changed by either statement. And thatle the one</p> <p>6 thing that we have in this case is we have video</p> <p>7 evidence that reflects an occurrence. That is</p> <p>8 happening in real time. So that being the factual</p> <p>9 evidence to the point that video evidence can be</p> <p>10 factual, I can't have either statement change what I</p> <p>11 am seeing on the video.</p> <p>12 Q. Okay. You have a eetticn in your report</p> <p>13 about distance, don't you, your paragraph numbering</p> <p>14 24, which is at, I think, Page 14, you consider</p> <p>15 distance important enough to have a separate section</p> <p>16 on it, didn't you?</p> <p>17 A. Thetis distance from the camera to the</p> <p>18 location where the occurrence happened. That has to</p> <p>19 do more with the defined articulable visible</p> <p>20 evidence from the video as it relates to the</p> <p>21 distance from the camera to the scene, which I also</p> <p>22 don't have an exact distance, hut what I do have is</p> <p>23 enough distance where the available data on the</p> <p>24 video is profoundly affected by that distance. we</p> <p>25 know that camera is not close to the scene, we know</p>
<p style="text-align: right;">Page 75</p> <p>1 occurred and are reflected on digital video. The</p> <p>2 statements about these things and how the interplay</p> <p>3 goes on are relevant to the investigation, but the</p> <p>4 occurrence that happened is reflected on video tape</p> <p>5 and cannot be refuted. So I can only assume that</p> <p>6 somebody is recalling information, that's an</p> <p>7 assumption, that is recalling information, recalling</p> <p>8 it from memory about where they were at when the</p> <p>9 occurrence took place. We have one person that is</p> <p>10 separated by an entire building that is actively</p> <p>11 pursuing and working in concert with another officer</p> <p>12 that's chasing an armed subject. Their recall of it</p> <p>13 varies from Officer Hill's recall of it. Officer</p> <p>14 Hill's recall of it lines up nearly perfectly with</p> <p>15 the dynamic of human movement and timing with shots</p> <p>16 fired, placement of the shots and the subject going</p> <p>17 down and a catastrophic incident occurring, causing</p> <p>18 the subject to go down, that's reflected on video</p> <p>19 from comparison of frame to frame activity. So, yes</p> <p>20 the statements are important, but the fact of the</p> <p>21 matter is, is that what happened on video happened</p> <p>22 and that's the only thing I can do is take that</p> <p>23 information, I can't take officer Gildea's statement</p> <p>24 to try to create something different on video. The</p> <p>25 video exists, so Officer Gildea's statements can't</p>	<p style="text-align: right;">Page 77</p> <p>1 it's a distance away from the scene, which causes</p> <p>2 artifacts on. the video, which causes a lack of</p> <p>3 articulable edges in the video. The distance I am</p> <p>4 referring to here ie in the camera distance from the</p> <p>5 scene, not the distance between two players in the</p> <p>6 scene.</p> <p>7 Q. Okay. Do you have any ballistics</p> <p>8 training?</p> <p>9 A, No, I have no ballistics training.</p> <p>10 Q. Do you}mow, you know that two bullets hit</p> <p>11 Justus Howell, correct?</p> <p>12 A. Yes, Sir-</p> <p>13 Q. Do you know which of those two bullets hit</p> <p>14 firsO</p> <p>15 A. That's imposeible to knew.</p> <p>16 Q. Do you know?</p> <p>17 A. It's impossible to know.</p> <p>18 Q. So it's impossible for you to know?</p> <p>19 A. It's impossible for anyone to know.</p> <p>20 Q. Do you have ballistic training?</p> <p>21 A. I do not.</p> <p>22 Q. How can you, without Ballistic training</p> <p>23 make a statement as definitive as you just made that</p> <p>24 it is impossible for anyone to know?</p> <p>25 A. Ballistics training doesn't identify gaps</p>

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<p style="text-align: right;">Page 78</p> <p>in time or things of that nature. There were two shots fired in rapid succession, based on the statements we see or we read, and based on the evidence that's visible to us on video, Ballistics is the study of the impact of a bullet on a surface. The Ballistics of a bullet, the speed in which it travels. There is no possible way for anyone, in my opinion, to make a determination which of two bullets fired in rapid succession hits a subject first or second.</p> <p>Q. Do you know where the bullets, the two bullets hit Oustus Howell?</p> <p>A. I don't have exact location.</p> <p>Q. Do you have any location?</p> <p>A, I actually don't, I remembered talking about it on the phone with counsel, but there was, had no diagrams, I had nothing to work from on that. The important part of my synopsis of this, again, I am not a ballistics expert, I work with ballistics experts, and my expertise comes from the use of force, and the interplay between subject and officer.</p> <p>Q. Ballistics also includes the trajectory of, you know, a moving bullet through the air?</p> <p>A. Sure-</p>	<p style="text-align: right;">Page BC</p> <p>counsel and something that I would have to request, because my opinions come from apply experience and my treatment to the analysis of this case.</p> <p>Q. The Lake County Task Force?</p> <p>A. Yes.</p> <p>Q. Prepared a report in this case, that's correct?</p> <p>MR. DICIANNI: Lake County Major Crimes Task Force prepared.</p> <p>Q. Prepared a report in this case contemporaneous with the incident, is that correct?</p> <p>MR. DICIANNI: I will object to the form of the question.</p> <p>A. Is that question to me?</p> <p>Q. Yes.</p> <p>A. I have no idea.</p> <p>Q. Have you ever heard of the Lake County Major Crimes Task Forces?</p> <p>A. I have, yes.</p> <p>Q. Have you ever seen their report, their full report on this case?</p> <p>A. No. Am I correct in saying that's the multi jurisdictional task force out of this district?</p> <p>Q. Yes. You have not seen the medical</p>
<p style="text-align: right;">Page 79</p> <p>Q. To it's target?</p> <p>A. Right.</p> <p>Q. Were you aware that Lewinaki did a report in this case?</p> <p>A. Dr. Lewinski is the one who suggested me for the case.</p> <p>Q. Were you aware that he did a report on this case?</p> <p>A. You know what, yes, I was aware that he did a report.</p> <p>Q. Have you read that report?</p> <p>A. I briefly glanced at it.</p> <p>Q. When did you look at that report?</p> <p>A. I can't remember, it's been a long time ago. But that report was Bill Lewineki's report, my report was mine.</p> <p>Q. I understand that. You did not review that report, did you, in connection with this case?</p> <p>A. I looked at that report, it had nothing to do with the review of this case, though. I won't, my protocol is I am not going to, I won't even read a D.A.'s report before I conduct my own analysis and my own report. Anything like that, that happens, that : feel my opinion or the opinion of this case could be affected by, I would have to get from</p>	<p style="text-align: right;">Page 81</p> <p>examiner report in this case, have you?</p> <p>A- No, I have not.</p> <p>Q. None of the documents listed on the thumb drive that you gave me today referenced the police practices of the Zion Police Department, is that correct?</p> <p>A. That's correct,</p> <p>Q. You didn't review any of the police practices of the Zion Police Department in preparation?</p> <p>MR. DICIANNI: You <i>mean</i> the policies?</p> <p>MR. ODIM: what did I say?</p> <p>MR. DICIANNI: police practices.</p> <p>A. No, I did not review the policies.</p> <p>Q. So you don't know whether or not Officer Hill's behavior was consistent with, was within policy of the Zion Police Department?</p> <p>A. I honestly do not,</p> <p>Q. So when you make reference in your report about standard police practices, you are not making reference to?</p> <p>A. Nothing specific to Zion, no.</p> <p>MR. DICIANNI: Let me remind you, let him finish the question.</p> <p>A. Sorry.</p>

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<p style="text-align: right;">page 62</p> <p>1 Q. It's fair to say that standard police 2 practices are riot part of the totality of 3 circumstances that you considered in making your 4 report in this case?</p> <p>5 A. They are a part of my report, yes.</p> <p>6 Q. How do you know that standard police 7 practices are applicable to the Zion, police 8 Department?</p> <p>9 A. Twenty years as a police officer.</p> <p>10 Q. You didn't read any of the Zion police 11 policies?</p> <p>12 A. Right. There is a certain level of 13 assumption that they get standardized training about 14 firearms and about pursuit and about the recognition 15 of deadly threats, and that is the general aspect of 16 this case that I am looking at is not what they are 17 policies on deadly force are because we have an 18 officer that's using deadly force in response to a 19 deadly threat, based on the reports and the video. 20 So in looking at this, I don't necessarily rely on 21 whether the policy says that this is reasonable, but 22 how it's reasonable, when I am looking at things of 23 this nature, I am applying Graham versus Connor, 24 am applying all my knowledge of deadly force and 25 threat accuses and looking at the human factor side</p>	<p style="text-align: right;">Page 84</p> <p>1 that I have received, I am assuming that Justus 2 Howell had a weapon in his hand, based on all of the 3 facts that I see on video, the reactions, actions of 4 the officers and the statements.</p> <p>5 Q. Okay. You don't see a gun in Justus 6 Howell's hand on the video, do you?</p> <p>7 A. You can't see a gun in his hand, you 8 cannot.</p> <p>9 Q. Meaning you cannot?</p> <p>10 A. I don't think that anyone can see a gun in 11 Justus Howell's hand that data doesn't exist on the 12 video, it's not articulate enough. You also cannot 13 see a weapon in the officer's hand.</p> <p>14 Q. Would you look at Page, rather paragraph, 15 your paragraph numbered 26, which is at Page 16 of 16 the document. Page 17 of the document?</p> <p>17 A. It's on 16?</p> <p>18 Q. Yea.</p> <p>19 A. My bad.</p> <p>20 Q. At line 15, you say it's impossible to 21 precisely interpret Mr. Hill's orientation and 22 position in relation to Howell's position?</p> <p>23 A. Left or right?</p> <p>24 Q. Do you mean this, do you not, by looking 25 at the video alone?</p>
<p style="text-align: right;">Page 83</p> <p>1 of the decision making and things of that sort.</p> <p>2 Q. But you didn't look at any Zion training 3 protocol, for instance, for using deadly force?</p> <p>4 A. No, sir.</p> <p>5 Q. You didn't look at Officer Hill's training 6 history background?</p> <p>7 A. No, pit,</p> <p>8 Q. You have no idea whether he is a novice 9 shooter or an expert shooter?</p> <p>10 A. I don't, but let me dovetail this into 11 that, that knowledge of either of those statuses 12 doesn't change the fact that shots were fired, a 13 subject was hit and deceased.</p> <p>14 Q. You don't know whether or not Justus 15 Howell had a gun during the incident that you 16 prepared your report about?</p> <p>17 A. Yes, I do know that Justus Howell had a 18 gun</p> <p>19 Q. How do you know that?</p> <p>20 A. The statements, the photographs of the 21 scene, the original</p> <p>22 Q. You are making an assumption, are you not?</p> <p>23 A. When you say that, I understand what you 24 are saying, I wasn't there, and I didn't see the gun 25 in Justus Howell's hand. Based on the information</p>	<p style="text-align: right;">Page E1 5</p> <p>1 A. No, there is other evidence, photographic 2 evidence, that shows where the subjects were running 3 and where they converged. So when I am saying 4 laterally, that means angle, laterally across two 5 dimensions of the video. So it's nearly impossible 6 to tell the orientation to the narrowest foot. But 7 there is lateral separation between the two. Now, 8 general positioning can be determined based on what 9 we are seeing in the video.</p> <p>10 Q. Okay. Let's clarify. Let me clarify 11 something. Ho to Page 16 of the doe orient?</p> <p>12 A. Okay.</p> <p>13 Q. The two images on Page 16 are photographic 14 extracts of the video?</p> <p>15 A. Yes, it's a screen shot.</p> <p>16 Q. It's a screen shot. And as presented in 17 this printed version, the clarity is not the same as 18 in the video version, which may not be that clear 19 either?</p> <p>20 A. It's a fairly close representation of the 21 blown up video. And so this picture is a fairly 22 close representation, and the purpose of the photo 23 is to show the pixel block and how we lose 24 articulate details.</p> <p>25 Q. And so what is the picture on the left of</p>

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<p style="text-align: right;">Page 86</p> <p>1 Page 16, is that the exact sire of the picture on 2 the video?</p> <p>3 A. No, that's blown up and a screen shot 4 taken so that you can see that even with an enhanced 5 larger version of it you don't get enhanced detail 6 in the photo.</p> <p>7 Q. So what you have got is two progressively? 8 A. Closer, right.</p> <p>9 Q. And so do you know what the enlargement 10 factor is for the first?</p> <p>11 A. No.</p> <p>12 Q. 110 percent, 150 percent, 200 percent? 13 A. No, they are considerably larger than 14 that. On the next page it will show you that one 15 is, oh, it's too small for me to read, my eyes are 16 failing me. The percentage of enhancements is on, 17 one is 800 percent and one is 11,000 percent. It's 18 basically just an example to show that no matter how 19 much closer you get in terms of zoom on a video, on 20 pictures that exist, it doesn't create data that 21 does not exist on the video. It's a simple 22 explanation that in these video cases, like this, 23 where the data does not exist, no matter how much 24 you enhance it, size wise, the video will not create 25 data that dose not exist. Does that make sense?</p>	<p style="text-align: right;">Page 88</p> <p>1 That vehicle is the vehicle that is sitting on scene 2 during the investigation. So the silver vehicle 3 that you see on the left has a line drawn to it to 4 the vehicle sitting on the right.</p> <p>5 Q. Bo you are just making a representation 6 that the line from the photo image?</p> <p>7 A. Yea.</p> <p>8 Q. To the still shot of the video image is 9 just saying these are the same cards?</p> <p>10 A. Yes.</p> <p>11 Q. That's all it is?</p> <p>12 A. Yes, it's a connecting tissue between the 13 vehicles in the scene,</p> <p>14 Q. All right, Now, the third image is from a 15 crime scene photo, is that correct?</p> <p>16 A. That is.</p> <p>17 Q. And the car represented in the third 18 picture is the same as the oar in the photograph in 19 the upper left?</p> <p>20 A. Upper left and right, that's correct.</p> <p>21 Q. Okay. There are two lines on the third 22 picture?</p> <p>23 A. Correct.</p> <p>24 Q. One to the right or in front of the car?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. Yes, it does. And the look at the images 2 ie on Page 17?</p> <p>3 A. Yes, sir.</p> <p>4 Q. The image on the right-hand side of the 5 page?</p> <p>6 A. Right.</p> <p>7 Q. It looks like it has two circles on it? 8 A. Correct.</p> <p>9 Q. Are those, is that your handy work?</p> <p>10 A. That is simply me circling two points of 11 interest in video that has been enhanced.</p> <p>12 Q. I just want to be clear that the image on 13 the left doaan't have?</p> <p>14 A. The Circles?</p> <p>15 Q. Right.</p> <p>16 A. Yes,</p> <p>17 Q. Look at Page 18, there are three images on 18 Page 18.</p> <p>19 A. Yes.</p> <p>20 Q. The two top images are from where?</p> <p>21 A. One of them is a photograph from the 22 scene, the one on the left-hand side, the other is a 23 still shot front the video with Justus Howell running 24 to the rear of that vehicle. The vehicle is 25 connected with a lino between the two photographs.</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. The distal point is at the front of the 2 car?</p> <p>3 A. Correct.</p> <p>4 Q. The distal paint on the line, on the 5 second line on the left is at the rear of the der?</p> <p>6 A. Correct,</p> <p>7 Q. And there are X marks at each of the 8 distal points, front and back of the car. Did you 9 put those X marks there?</p> <p>10 A. I did.</p> <p>11 Q. And then the line, there are lines from 12 each of those two X marks into the foreground?</p> <p>13 A. Correct.</p> <p>14 Q. You also drew those lines?</p> <p>15 A. I did.</p> <p>16 Q. Those lines are not drawn based on any 17 measurements that you have, correct?</p> <p>18 A. It's not measurements, it's information 19 that's available on the video.</p> <p>20 Q. It's conceptual, these lines are not meant 21 to show an accurate path?</p> <p>22 A. Not an exact path, no. Can I explain 23 those lines to you?</p> <p>24 Q. Sure.</p> <p>25 A. So what this is video is two dimensional.</p>

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<p style="text-align: right;">Page 90</p> <p>we don't get lateral distances between subjects in the video. So everyone who views this video assumes that Justus Howell is in front and the officer is in the rear, and many of them equate that to a parallel pursuit, meaning this, and that's not what is happening. The officer is here, Justus Howell is out here.</p> <p>Q. I mean, if you could try to phrase that in words?</p> <p>MR. DICIANNI: Try to describe it in words.</p> <p>A. Got you. Justus Howell is at the rear of the vehicle in the photographs, officer Hill on the video is in front of or close to the building in the photographs in the video. So it shows that there is lateral disparage between the individuals running in the video, they are not running parallel or perpendicular, straight in front of each other. They are at an angle. So there is a distance between them, right to left, not only forward and backwards. So during this run that we see on the video, the place where these lines come to a halt is where Justus came to a, where Justus fell during this incident. So they are conceptual that we don't have an exact pattern, but on the video the factual</p>	<p style="text-align: right;">Page 92</p> <p>Justus Howell and Officer Hill are one behind the car respectively, and two in front of the car at the same time?</p> <p>MR. DICIANNI; I object to the form of the question. You can answer.</p> <p>A. The photographs simply show, and the purpose of them is to show that the individuals were not directly front and back of each other.</p> <p>Q. okay.</p> <p>A. The pictures are simply to show that there is an angle of approach between the two subjects running. That is an interplay dynamic that's very important in this case. So that is a conceptual video or picture that shows that there is a minimum of the width of that vehicle between the two, Probably a foot or two or more between each one at the point where he is running against the front of the buildings, which we don't know exactly his position there. We know that's he is in front of the vehicles, and if he is in front of the vehicles from the camera angle, and he is in front of the building because we can see the movement and we know that Justus Howell is behind the vehicles, and running at a left to right distance, as well as a front to back distance, that's what that picture is</p>
<p style="text-align: right;">Page 91</p> <p>evidence shows that they are running, that Justus Howell, something catastrophic happens, he falls, and he falls in this area. The example shows that it isn't straight in front. So there is an angle of approach on Officer Hill and Justus Howell. It is not directly behind. There is a distinct angle of approach that is not considered in video in most occasions.</p> <p>Q. Now, the angle of approach, you are saying that the third picture shows the angle of an approach?</p> <p>A. An approximate angle between the running individuals.</p> <p>Q. And that's all it shows?</p> <p>A. Yes, that's it. That's the only, that is what the purpose of those pictures is.</p> <p>Q. This static third picture doesn't account for the difference in time at which Justus Howell passes the rear of the vehicle?</p> <p>A. No.</p> <p>Q. At which Officer Hill passes the front of the vehicle?</p> <p>A. Correct, that's depicted on the video.</p> <p>Q. so this static picture may be deceptive in that it looks as if it shows that at the X marks</p>	<p style="text-align: right;">Page 93</p> <p>for.</p> <p>Q. Now, you have a star, squiggly star?</p> <p>A. Yes, I would call it a star.</p> <p>At the end of the line in the foreground of where you, I assume Justus Howell?</p> <p>A. It's an approximate location. It's approximate location for where Justus Howell ended up on the grass in that area, it's not, it is not designed as a specific or an exact accurate location. It was in this area where the items were in the grass area and where the incident came to a close.</p> <p>Q. So I mean, do you know whether there is a tree in this area that's depicted on that third photograph?</p> <p>A. Absolutely, you can see it in the video, yes, there is trees, they exist.</p> <p>Q. so Justus Howell may have fallen in this general area, but it may not be depicted in this picture exactly?</p> <p>A. It's a general depiction based on the forensic videos from the scene.</p> <p>Q. I am just trying to figure out how general or how accurate this is. I mean, could Justus Howell have fallen just outside the frame of what is</p>

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<p style="text-align: right;">Page 94</p> <p>1 depicted in this third picture?</p> <p>2 A. No, the video, the photographic evidence</p> <p>3 shows that he was in this area.</p> <p>4 Q. Okay. How big is the square footage?</p> <p>5 A. I am not certain.</p> <p>6 Q. Okay. Are you saying that just outside</p> <p>7 the frame of the foreground of this third image,</p> <p>8 isn't part of the general area that Justus Howell</p> <p>9 may have fallen in?</p> <p>10 A. Well, that's not the purpose of the</p> <p>11 photograph. The purpose is specifically to depict</p> <p>12 the lateral distance between the two subjects,</p> <p>13 that's it.</p> <p>14 Q. All I am trying to do is be accurate about</p> <p>15 what this photograph may be taken to mean. Is it</p> <p>16 fair to say that this photograph should not be taken</p> <p>17 to represent where Justus Howell fell?</p> <p>18 A- It's generally where he fell. It can be</p> <p>19 taken as generally in the crime scene where Justus</p> <p>20 Howell came to rest.</p> <p>21 Q. And does generally include just outside</p> <p>22 the frame of this picture?</p> <p>23 A. I can't tell you definitively that it</p> <p>24 doesn't say that, but I can tell you that the items</p> <p>25 Justus Howell was carrying and where they worked on</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Yes, sir.</p> <p>2 Q. In this third picture?</p> <p>3 A. Yes.</p> <p>4 Q. Would you look at your paragraph, 78, at</p> <p>5 Page 19 of this document, line number ten, or rather</p> <p>6 from line number six through line number 12, would</p> <p>7 you read to yourself?</p> <p>8 A. These general movements can be observed</p> <p>9 and identified by making comparisons from frame to</p> <p>10 frame in the broad view of the video in identifying</p> <p>11 certain behaviors in each participant in the</p> <p>12 incident. However, considering the limitation of</p> <p>13 video, the statements of officers and witnesses must</p> <p>14 he considered as the structure for fact finding and</p> <p>15 subsequent opinions. The data gleamed from the</p> <p>16 video review and analysis and my report are</p> <p>17 considered as supporting investigative data.</p> <p>18 Q. Do I read, no, do you mean generally, by</p> <p>19 this that the data you gleam from the video is of</p> <p>20 less value than the statements of the officers and</p> <p>21 the witnesses?</p> <p>22 A. I am not putting a value on either,</p> <p>23 because we run into limitations with officer's</p> <p>24 statements and recall memory and we run into</p> <p>25 limitation with video. The video is supporting the</p>
<p style="text-align: right;">Page 95</p> <p>1 Justus Howell are all in this area. Now, they could</p> <p>2 have thrown those items, and it could have been is</p> <p>3 circus there, I don't know. But from the pictures</p> <p>4 that we have available to us, both you and us, show</p> <p>5 a general area of where he came to rest and it's in</p> <p>6 that area where that star is at. It's not exact, it</p> <p>7 could be feet away, I don't know that, but the</p> <p>8 pictures depict where Justus Howell came to rest.</p> <p>9 Q. Yes, that we don't have a debate about?</p> <p>10 A. Okay. So yes, this photograph is</p> <p>11 specifically to show the angle, that's it.</p> <p>12 Q. Now, the line that is meant to show the</p> <p>13 path, conceptual path of Officer Hill ends close to</p> <p>14 the line that is meant to show the conceptual path</p> <p>15 of Howell?</p> <p>16 A. Just to correct, to show a conceptual</p> <p>17 conversion to represent the angle of approach.</p> <p>18 Q. Using the third picture, can you say where</p> <p>19 officer Hill was standing when he shot?</p> <p>20 A. NO,</p> <p>21 MR. DIC/ANNI: Let me clarify just using</p> <p>22 the third picture?</p> <p>23 A. The third picture at the lower?</p> <p>24 Q. Yes. Do you see the sidewalk that was</p> <p>25 talked about by officer Hill?</p>	<p style="text-align: right;">Page 97</p> <p>1 facts that are given to us by the officers, and as I</p> <p>2 said earlier, there are going to be disparages</p> <p>3 between those fact patterns as we run into with</p> <p>4 Gildea and Hill, and where the shots were heard and</p> <p>5 those types of things. tut the information that's</p> <p>6 on the video cannot be changed by the contents of</p> <p>7 the statement, if that makes sense. So neither is</p> <p>8 less valuable than the other, but the video in this</p> <p>9 case, as in any case, is supporting the statements</p> <p>10 that exist from not only officers, but potential</p> <p>11 witnesses and everyone else involved in the</p> <p>12 incident.</p> <p>13 Q. You used the phrase in the paragraph you</p> <p>14 just read, structure of fact finding?</p> <p>15 A. Structure for fact finding.</p> <p>16 Q. And subsequent opinions.</p> <p>17 A. The statement of the officers and</p> <p>18 witnesses must be considered as the structure for</p> <p>19 fact finding in subsequent opinions.</p> <p>20 Q. Isn't that because of the limitations that</p> <p>21 you find in the video, isn't that what you say in</p> <p>22 the introductory clause?</p> <p>23 A. Absolutely. We have limitations in video,</p> <p>24 we have talked about those in the earlier part of</p> <p>25 this report. So when we are looking at the</p>

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<p style="text-align: right;">Page 98</p> <p>1 statements from the officers, especially the 2 involved officer, those statements create the 3 structure in which we use to make, to look at the 4 video to support what the officer's recall of that 5 incident was. And that it may not, when I say 8 support, it may not always line up factually. It's 7 not in place to say that the officer was correct or 8 not correct, but that's the structure that we start 9 to view the video in.</p> <p>10 Q. Okay, Page 29, I am sorry, Paragraph 11 Number 29, it's on the same page. This is the 12 reference to BP4 that I made earlier in this 13 deposition, what was the enhanced version was given 14 to you as BP4,, so it was converted, the original 15 video was not an MN?</p> <p>16 A. I don't believe it was, but the video 17 codes is actually on that, so I believe you will see 18 it's not an MP4.</p> <p>19 Q. And you don't know what the conversion 20 factor from the original to the HP4?</p> <p>21 A. Can you explain to me what you mean by 22 conversion factor?</p> <p>23 Q. You know what the conversion values were, 24 I am using lay terms to say this. When you copy 25 video from one codec to another, you can set up</p>	<p style="text-align: right;">Page 100</p> <p>1 officer involved in the statemente said this call 2 seemed out of the ordinary in comparison to any call 3 for service.</p> <p>4 Q. So the absence of comments by the officers 5 about similar calls allows you to say that the 6 particular call in this case was consistent with 7 similar calls for service?</p> <p>8 A, what you are saying is pretty definitive. 9 I am making the statement there that the information 10 received by the officers, in none of their 11 statements did they say it was inconsistent or 12 raised any flags as compared to any other call for 13 service.</p> <p>14 Q. The second sentence of your paragraph 15 Number 31 says a reported fight further, a reported 16 tight call with shots fired is not a high frequency 17 call, and such calls post very real threats to 18 officers and to the public. You don't have any 19 evidence that shots fired is not a high frequency 20 call at Zion, do you?</p> <p>21 A. Yes, I mean, not from the officer, but a 22 shots fired call with a fight involved is not a high 23 frequency call. That's, in general, across the 24 United States being a statisticians that I am, those 25 calls are not a high frequency, high exposure call</p>
<p style="text-align: right;">Page 99</p> <p>1 parameters, right, for the copying?</p> <p>2 A. To a certain extent you can. The problem 3 is that when a video is copied, regardless of what 4 parameters you set, compression takes place. That 5 compression is part of what we look at in codec and 6 all those other things. And it's extremely 7 confusing and convoluted. The bottom line is that 8 compression exists, meaning that the video is going 9 to lose some clarity, possibly, during that 10 compression, but there is no conversion factor, and 11 I have no idea what was used in the enhancement 12 because I received that video named, enhanced, none 13 of that happened in my video studio.</p> <p>14 Q. Okay. The paragraph 31 of your report, on 15 Page 20, you have a heading here called preexisting 16 information. The first sentence of that paragraph 17 reads the quantity and quality of the information 18 dispatched was information given to officers in a 19 consistent method as related to other similar calls 20 for services. You don't have any other information 21 about similar calls for service in Zion, do you?</p> <p>22 A. No, but there was no statement that this 23 call was out of the ordinary. So I am not doing a 24 comparative check to what seems to be ordinary, I am 25 making a statement based off the fact that no</p>	<p style="text-align: right;">Page 101</p> <p>1 to officers, they happen once in a while.</p> <p>2 Q. But you don't know that for a fact in 3 Zion?</p> <p>4 A, No, I have no factual data, that call is 5 not a frequent call in the police world. Those 6 calls happen once in a while, but that's a very 7 Serious call, it's considered a high risk call for 8 service.</p> <p>9 Q. Is it fair to say you are applying a 10 generalization to the Zion Police Department?</p> <p>11 A. Yes, absolutely fair.</p> <p>12 MR. MC:ANN': Off the record. 13 (Whereupon, an off the record discussion 14 was held.)</p> <p>15 Q. Would you look at your paragraph numbered 16 34, which is at Page 20?</p> <p>17 A. Four, I have it on Page 21, on.,.</p> <p>18 Q. Twenty-one, sorry?</p> <p>19 A. Yes.</p> <p>20 Q. Page 21. I am sorry, your paragraph 21 number 35?</p> <p>22 A. Okay.</p> <p>23 Q. You say in lines 22 and 23 of this or 23 24 and 24 of this that Officer Felt, based upon 25 objective facts learned up to that point, what</p>

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<p style="text-align: right;">Page 102</p> <p>1 objective factors are you referring to?</p> <p>2 A. His view of the weapon, the fact that the</p> <p>3 subject was involved in a fight, had fired the</p> <p>4 weapon, These are coming from the statements of</p> <p>5 officer Hill. And the information that he had at</p> <p>6 that point is he has got a visual on the weapon, he</p> <p>7 sees the weapon, he sees Justus Howell spotting him,</p> <p>8 looking back over his shoulder at him, as the</p> <p>9 pursuit ensues. And all of those facts, those</p> <p>10 objective facts that are his opinion, in his</p> <p>11 statements he is saying that he sees these things</p> <p>12 that are occurring in front of him, and those aren't</p> <p>13 based on a fact that he could potentially have a</p> <p>14 weapon, but a guess that he has a weapon, but he</p> <p>15 sees the weapon, he sees the weapon, he sees Justus</p> <p>16 Howell looking back, so he is giving those facts to</p> <p>17 us, objectively, it's not his opinion that it</p> <p>18 happened, it's what he saw.</p> <p>19 Q. If Justus Howell didn't have a gun and</p> <p>20 officer Hill says Officer Howell had a gun, that's</p> <p>21 not an objective fact, is it?</p> <p>22 A. If that was the case, it wouldn't.</p> <p>23 Q. But all you are referring to here is what</p> <p>24 Officer Hill says Officer Hill saw?</p> <p>25 A. That and the fact that there is a gun on</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. okay. I just, the fact that, let's assume</p> <p>2 that what is shown in the post shooting photograph,</p> <p>3 that there was a gun on the scene. There is no</p> <p>4 evidence, other than officer Hill's testimony,</p> <p>5 right, that gun was pointed at Officer Hai?</p> <p>6 A. So are we making an issue of fact on the</p> <p>7 fact that the gun was pointed at Officer Hill or</p> <p>8 that he saw a gun?</p> <p>9 Q. No, specifically on this one, I am going</p> <p>10 with, there is no evidence that other than Officer</p> <p>11 Hill's testimony that a gun was pointed at him by</p> <p>12 Howell.</p> <p>13 A. There is no other evidence that I knew of,</p> <p>14 other than Officer Hill's statements.</p> <p>15 Q. And there is no evidence other than</p> <p>16 Officer Hill's testimony that he saw a gun in</p> <p>17 Howell's hand?</p> <p>18 A. Yes, there is, there is a weapon on the</p> <p>19 scene.</p> <p>20 Q. No. I am not talking about a weapon on</p> <p>21 the scene, I am talking about a weapon in Howell's</p> <p>22 hand?</p> <p>23 A. Yes, the evidence tied together, with, if</p> <p>24 you are looking at,</p> <p>25 Q. Let me ask re-ask it.</p>
<p style="text-align: right;">Page 103</p> <p>1 the scene, there is a weapon near Justus Howell that</p> <p>2 fell that matched the description of what Officer</p> <p>3 Hill said he saw. So it's a connective tissue</p> <p>4 between all of the evidence, not just what the</p> <p>5 statement says, but what the photographic evidence</p> <p>6 says, what the other officer said he saw, what the</p> <p>7 ending result was, and the evidence that was found</p> <p>8 on the scene. So that information is what compiles</p> <p>9 because you know if he said he saw a weapon, but</p> <p>10 didn't, then there wouldn't be a resulting weapon on</p> <p>11 the scene and things would be different.</p> <p>12 Q. But that's not accurate, you know what a</p> <p>13 dropped weapon is, a dropped gun at a scene is?</p> <p>14 A. Yes, I do,</p> <p>15 Q. What is the phrase used in the street for</p> <p>16 that?</p> <p>17 A. Not certain what it is in Chicago, but</p> <p>18 planted evidence.</p> <p>19 Q. Planted evidence?</p> <p>20 A. Which is a ridiculous theory.</p> <p>21 Q. You are saying officers don't drop guns in</p> <p>22 order to?</p> <p>23 A. No, I am not saying that officers don't.</p> <p>24 In this case I believe that the officers didn't,</p> <p>25 that's my opinion.</p>	<p style="text-align: right;">Page 105</p> <p>1 MR. DICIANNI: I think you should let him</p> <p>2 finish the answer.</p> <p>3 MR. ODI: It's not responsive and maybe</p> <p>4 it was an unclear question, maybe it's my</p> <p>5 fault.</p> <p>6 A. Okay.</p> <p>7 Q. When I am talking about a gun being, when</p> <p>8 I talk about Officer Hill saying he saw a gun in</p> <p>9 Howell's hand, I am not referring to the existence</p> <p>10 of a gun based upon the whole circumstance as you</p> <p>11 have described, I am not talking about the existence</p> <p>12 of a gun?</p> <p>13 A. We are specifically talking about his</p> <p>14 statement.</p> <p>15 Q. I am talking about a gun in Howell's</p> <p>16 hands, that's all I am talking about?</p> <p>17 MR. DICIANNI: Corroborative of the</p> <p>18 testimony, just actually in his hand, just to</p> <p>19 be clear.</p> <p>20 Yes, there is no evidence?</p> <p>21 A. There is no other evidence other than his</p> <p>22 statement, you are correct, of a weapon in his hands</p> <p>23 during the pursuit.</p> <p>24 Q. Okay. That's all I was getting at. Page</p> <p>25 22 of your document, Paragraph 36, the first line,</p>

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<p style="text-align: right;">Page 106</p> <p>1 Deffenbacher (1994), is this a quotation?</p> <p>2 A. Yes, it's cited from Kenneth Deffenbacher,</p> <p>3 would you like me to read it?</p> <p>4 Q. Ne, I just want to know?</p> <p>5 A. It's a quotation from his work.</p> <p>6 Q. In this report you have in various places,</p> <p>7 italicized text, is it your protocol to italicize</p> <p>8 everything that is a quote?</p> <p>9 A. It's not my work, I italicize it if</p> <p>10 Deffenbacher wrote this, this is cited in</p> <p>11 Deffentacher's 1994, this is from his work.</p> <p>12 Q. What I mean is, it doesn't have quotation</p> <p>13 marks around it, so my question is, have you in</p> <p>14 every place in this document?</p> <p>15 A. I don't know.</p> <p>16 Q. Used italicized language to mean language</p> <p>17 that is direct quotes from the sources that you</p> <p>18 reference?</p> <p>19 A. They were from the sources I referenced,</p> <p>20 yes. The work comes from Deffenbacher. A quote</p> <p>21 would be something that he said, and his statement,</p> <p>22 bur this is work from Deffenbacher, out of one of</p> <p>23 his writings, Deffenbacher 1994.</p> <p>24 MR. DICIANNI: It could be paraphrased?</p> <p>25 A. No, this is actual work straight from his</p>	<p style="text-align: right;">Page 108</p> <p>1 opinion of someone who is an expert on law, is it?</p> <p>2 A. It's not an expert on law, it's an expert</p> <p>3 on use of force where the law applies.</p> <p>4 Q. It's not a legal opinion, is it?</p> <p>5 A. It's my opinion where Graham versus Connor</p> <p>6 applies. I can't give legal opinions,</p> <p>7 Q. Look at your paragraph 43, which is at</p> <p>8 Page 24?</p> <p>9 A, okay.</p> <p>10 Q. The first sentence reads, it is known in</p> <p>11 the field of police work that officers are reactive</p> <p>12 to the actions of an offender, and that initial</p> <p>13 action is faster than reaction. And then in the</p> <p>14 middle of that paragraph you say Officer Hill then</p> <p>15 had to be some what predictive in formulating a</p> <p>16 response to the perceived threat, which in this case</p> <p>17 was a very rapid procedure and occurring under the</p> <p>18 Compreseion of time, You see those two?</p> <p>19 A, Yes.</p> <p>20 Q. when you say Officer Hill had to be</p> <p>21 somewhat predictive, you are applying a general</p> <p>22 standard that you derive from your reading to</p> <p>23 officer Hill aren't you?</p> <p>24 A. Well, yes, in part.</p> <p>25 Q. okay.</p>
<p style="text-align: right;">Page 107</p> <p>1 work.</p> <p>2 Q. I just want to make sure the language we</p> <p>3 are using is the same?</p> <p>4 A. Yes.</p> <p>5 Q. It's not significant, I am trying to find</p> <p>6 out whether or not, I mean, paragraph 36 is direct</p> <p>7 quotation from Deffenhaeher 1994 whatever that</p> <p>8 document is?</p> <p>9 A. Yes.</p> <p>10 Q. It's a direct quote?</p> <p>11 A. It is.</p> <p>12 Q. What is the document that this direct</p> <p>13 quote is from?</p> <p>14 A. Well, let me go into my, I did not cite</p> <p>15 it. I will have to get you that citation, my</p> <p>16 apologies, I did not cite that.</p> <p>17 MR. DICIANNI: You can probably google it.</p> <p>18 A. Yes, you can. My apologies. That should</p> <p>19 be cited, that's definitely from Deffenbacher.</p> <p>20 Q. You don't have any training as a lawyer,</p> <p>21 do you?</p> <p>22 A. No, except for my wife's in law school.</p> <p>23 Q. The opinions that you give, your paragraph</p> <p>24 37, and elsewhere in this report regarding the</p> <p>25 applicability of the law, is not meant to be the</p>	<p style="text-align: right;">Page 109</p> <p>1 A. May I expound on that?</p> <p>2 Q. Yes.</p> <p>3 A. Officer Hill is chasing an armed subject,</p> <p>4 based on his statements. During this time the</p> <p>5 subject is looking over his shoulder and spotting</p> <p>6 where Officer Hill is at. As police officers we</p> <p>7 know, generally speaking, across the nation that</p> <p>8 these are threat cues that say when somebody is</p> <p>9 trying to identify your location there is a purpose</p> <p>10 for it, when they are not complying and they are</p> <p>11 running from you. In those moments, where this</p> <p>12 information is coming in and perception is coming in</p> <p>13 to Officer Hill, where he sees a weapon, at that</p> <p>14 converging angle he sees the weapon coming back. At</p> <p>15 that point he is predicting the fact that he is</p> <p>16 probably as opposed to possibly going to be under</p> <p>17 attack, deadly attack from Justus Howell. We have a</p> <p>18 subject that's non compliant, he is running from</p> <p>19 police officers, he has a weapon in his hand and as</p> <p>20 he is looking back that weapon is coming in and out</p> <p>21 of view and as he starts to turn, at that point the</p> <p>22 officer is making the prediction that he is going to</p> <p>23 be under deadly attack. And at that moment should</p> <p>24 he have decided to shoot, his actions would have</p> <p>25 most definitely heat the reaction of Officer Hill.</p>

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<p style="text-align: right;">Page 110</p> <p>1 Officer Hill is, and has to be somewhat predictive 2 based on the totality of the circumstances, that 3 this is going to end up in a deadly attack and the 4 threat of that attack is imminent. 5 Q. But you are applying what when you say we 6 as officers? 7 A. Yes officers in general. 8 Q. You are applying a general standard and 9 saying that you believe that Officer Hill acted in 10 conformity with this general atandard? 11 A. Based on his statement. 12 Q. Based on his atatements? 13 A. Yes. So that takes it out of the general 14 conformity. And I am going off of what Officer Rill 15 is stating to me, that when he ie in this area where 16 he has made the decision that he is under deadly 17 attack or will be, he chooses to use deadly force. 18 Q. Now, you used in your report at several 19 places the phrase decision making? 20 A. Yes. 21 Q. Is it fair to say that this decision 22 making doesn't comport with the lay meaning of 23 decision making that is over that occurs over a long 24 period of time or a longer period of time than a few 25 seconds?</p>	<p style="text-align: right;">Page 112</p> <p>1—rapidly occurring based on all of the information 2 that's being perceived and the officer's attention 3 to that information that's coming in. So the 4 officer's focus of attention is on the fact that 5 Justus Howell is running and has a weapon in his 6 hand and the position of that weapon and the 7 position of his body and that decision comes in very 8 rapidly, and it is a conscious, albeit very rapid 9 decision. 10 MR. DICIANNI: The answer is no, he is not 11 verbalizing those statements in his head, as he 12 is making the decision. 13 A- Correct, there is no... 14 MR. ODIM: It's wonderful to have a lawyer 15 summarize your words that way. 16 A. Yes, the abort answer is yes, he is not 17 verbalizing it to himself. 18 O, Look at your paragraph Number 44 on Page 19 25, line beginning line of seven, you say deputies 20 are trained to identify, and it goes on? 21 A- Yes. 22 Q. In this case you didn't review any of 23 officer Hills training materials? 24 A. I did not, 25 You have no idea what training he received</p>
<p style="text-align: right;">Page 111</p> <p>A. Yes, this is decision making that's 2 happening nearly intuitively and under the 3 compression of time, it's split second decision 4 making. 5 Q. It's sot necessarily conscious decision 6 making? 7 A- No, I would say it's conscious. 8 Q. when you say conscious or when I use the word conscious, I mean the officer saying to 10 himself, in his mind, I am under threat now, I need 11 to take this action now, it looks like I am going to 12 get shot if I don't pull the trigger? 13 A. Yee, there ie comparators going on in the 14 situation. 15 Q. So he is, itos your testimony that the 16 officer is actually talking to himself in that way? 17 A. Not at that time frame, not, that's not 18 representative of the decision making process, it's 19 delineated in here, the complexity of the deoiaion 20 bifurcate our attention. In this case we see that 21 decision is pending and there are actions that are 22 happening that the officer is perceiving and making 23 his decisions on. And they are very conscious, 24 although they are very rapid. Those decisions are</p>	<p style="text-align: right;">Page 113</p> <p>1 with the Zion Police Department? 2 A. I don't have any idea what he received. 3 Q. So any application of a genera], standard 4 about how deputies are trained would not necessarily 5 conform with how Hill was trained? 6 A. Not necessarily, 7 MR. DIC/ANNI: Can we take a short break? 8 O. Look at your paragraph 45, human factors, 9 is it fair to say human factors, as you use the term 10 here, come into play in every single human activity 11 in which humans are involved in? 12 A. Yes, air. 13 Q. Human factors in an extended drum role? 14 A. Yes. 15 Q. &moan factors in playing soccer? 16 A. Yes, sir. 17 Q. What is the scientific basis of this human 18 factor analysis that you use in this report? 19 A. That's extremely varied. There is many 20 different human factors and human behaviors that are 21 at play, action, reaction trigger pull time, there 22 is a myriad of human factors at play here. 23 Q. Is there a course of study at any 24 university that you are aware of that deals with 25 human factors in police shootings?</p>

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<p style="text-align: right;">Page 114</p> <p>1 A. Not necessarily, and I am not aware of 2 any, doesn't mean that there are riot any. 3 Q. Force Science Institute is referenced as 4 the source of much of the information that you give 5 in this report about human factors, is that fair? 6 A- Yea, the empirical data that is garnered 7 from the scientific studies is conducted by the 8 Force Science Institute, this is not just 9 information that exists but it's information that 10 exists through scientific studies that is reported 11 in several different journals and articles. 12 Q. Are you aware that Lewinski has been 13 barred as an expert in more than one case in the 14 United States, and he is been barred in more than 15 one case based, ha is been barred as en expert on 16 this so-called human factor and human dynamics 17 analysis? 18 A, Yes, I am aware. 19 MR. DICIANNI: I am going to object to the 20 form of the question. 21 Q. Did you understand the question? 22 A. I did understand the question, it's not 23 relevant to me though. 24 Q. Is the basis of your testimony about human 25 factors, the scientific basis different from the</p>	<p style="text-align: right;">Page 116</p> <p>1 occurred? 2 A. Yes, I do. 3 Q. In this cage? 4 A. And if I might expand on that a little 5 bit, we rely on his statements for deriving what he 6 states that he perceived from the incident. That's 7 what we have to go on. The only thing we can use to 8 define what officer Hill was focused on or, what he 9 was perceiving is what he states that he was 10 focusing on or perceiving. My analysis of that is 11 what is linked to what I am seeing on the video and 12 any distinct inconsistencies that happened with what 13 his statements are and what is actually happening on 14 the available data that we can garner from the 15 video. 16 Q. About Officer Hill's reaction, as 17 referenced in the concept bolded in Paragraph 48, 18 what was Officer Hill's reaction from the time he 19 first perceived a threat from Howell to the time he 20 pulled the trigger? 21 MR, DICIANNI: I will object to form of 22 the question. Do you understand the question. 23 A. I do, but that's a very broad straw 24 question and it begins at the time that Officer Hill 25 encountered Justus and the time that the trigger was</p>
<p style="text-align: right;">Page 225</p> <p>1 basis of the scientific and different from the basis 2 of Lewinski's -- I will withdrawn the question. 3 MR, DICIANNI: Good idea. 4 Q. Do you have a different scientific basis 5 for your use of human factor analysis as the basis 6 that you learned at Force Science Institute? 7 A. Its a broad question because human 8 factors covers multiple areas. It's not, in one 9 case you might be looking at the human factor of the 10 dynamics of human movement, and in another you might 11 be looking at action versus reaction. So that kind 12 of broad question, Z can't give you a definitive 13 answer because there is too much scientific data on 14 too many different human factors. 15 Q. Look at your paragraph 48, Page 27. You 16 have bolded several concepts here. I presume they 17 are noncepts, perception one, reaction, the second, 18 motor movement time, third. Again, you know nothing 19 about Officer Hill's training, correct? 20 A. No, I don't. 21 Q. You know nothing about his training to use 22 firearms? 23 A. No. 24 Q. You don't have any information about his 25 perception in the context of the shooting that</p>	<p style="text-align: right;">Page 117</p> <p>1 pulled, which there are several interactions 2 happening during that pursuit, So I can't tell you 3 definitively about reaction time, all we tan do is 4 take the information that's on the video and 5 identify major changes in the behavior of 6 individuals on that video. I can determine a window 7 of time that decisions were being made and reactions 8 were happening to actions that we can pee in the 9 video using comparative frames, body movement, 10 movement dynamics, the end result of the incident 11 where Justus Howell is shot ultimately and lands in 12 the grass. And the information that is occurring on 13 the video, we can take that video and we can 14 delineate and identify windows of time, not specific 15 times. No where in my report do I identify any 16 particular exact moment that a decision was made or 17 that a reaction came into play, Only windows of 18 time that are supported by the video and compared 19 against the statements. 20 Q. You can't say when Officer Hill first saw, 21 says he saw a gun in Howell's hand? 22 A. Officer Hill states when he first saw the 23 gun in his hand, I can only take that statement for 24 face value. 25 Q. Would you look at your Paragraph 49?</p>

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<p style="text-align: right;">Page 118</p> <p>A. Yes,</p> <p>Q. Jest read the first paragraph and then am going to ask you a question About</p> <p>A. In this real life scenario.</p> <p>Q. I meant read it to yourself?</p> <p>A. Okay. I am familiar with it.</p> <p>Q. Aren't you making an assumption that officer Hill was acting in conformity with general information about how people react in "extremely complex stimulus situations"?</p> <p>A. NO, Officer Hill fired his weapon, the facts exist that the weapon was fired and Justus Howell was struck. So I am not assuming that he fired, the fact is that he fired, the fact is that this is not a simple laboratory experiment, this is a real life scenario.</p> <p>Q. That's where I am going. The difference between the distinction between simple stimulus and extremely complex etimulus has nothing to do with the individual, directly to do with the individual being stimulated. It has to do with the circumstance in which they are stimulated. Does that make sense?</p> <p>A. Is that a statement or is that a question?</p> <p>QC That's a question.</p>	<p style="text-align: right;">Page e20</p> <p>complex stimulus situation?</p> <p>MR. DICIANNI: I am going to object to the form of the question.</p> <p>A. I am not tracking.</p> <p>[R, DICIANNI; I know what you mean, but I don't think it's...</p> <p>Q. To say that this was an extremely complex stimulus situation is not to say that Officer Hill took this as an extremely coeplex stimulus situation?</p> <p>A. Officer Hill never said the words that this was an extremely complex stimulus situation to me or in his statements, all right, and so yes, that much is true.</p> <p>Q. This highly trained officer or an officer highly trained as an expert marksmen, right, may subjectively operate in an extremely complex stimulus situation, much more calmly than a novice shooter?</p> <p>A. Absolutely.</p> <p>Q. By the way, you mentioned in your report that your opinions are part guided by ninth circuit law and the Supreme Court?</p> <p>A. Some of them, yes.</p> <p>Q. Do you know what circuit governs the</p>
<p style="text-align: right;">Page 119</p> <p>A. I am not sure. You are telling me -- rephrase the question?</p> <p>Q. There is no way for you to know whether officer Hill considered this a pimple stimulus <i>CIF</i> quote an "extremely complex stimulus"?</p> <p>A. In answer to that question, a simple stimulus is a light that turns on or and off there is no consequence to your decision. Simple stimulus meene there is a simple process, simple set of instructions and simple results, and with no interaction, no interplay between the target and the shooter. Anything outside of a simple experiment where we are simply trying to identify times in action reaction is considered extremely complex, where the movement, the dynamics, the distance that we can see on the video between the two players, the movement and interaction between the officer and Justus Howell, all of these things create complex stimulus.</p> <p>Q. Okay. So the stimulus is external to the actor in the situation?</p> <p>A. Yes.</p> <p>Q. Okay. And calling this an extremely complex stimulus situation is not to say that officer Hill took it oubjectively as an extremely</p>	<p style="text-align: right;">Page 121</p> <p>geographic area in which Zion is located?</p> <p>A. I believe it's the fifth circuit.</p> <p>Q. Are you excluding from your opinions in this report, law outside the ninth circuit?</p> <p>A. Yes, the only law that I cite in this report, although I exist as an expert in the ninth circuit is supreme court case law that affects every 8 circuit.</p> <p>Q. But you do cite the Forrester versus City of San Diego Case 25F3804, which is a ninth circuit?</p> <p>A. Decided under Graham versus Connor, Graham versus Connor was the guiding case in the decision to eorrester.</p> <p>Q. I just want to be clear, when you said you didn't cite any ninth circuit case?</p> <p>A. Right, not a ninth circuit case, it was not guided by, it was a supreme court case.</p> <p>Q. Looking at your Page 51, your paragraph 51?</p> <p>A. Okay.</p> <p>Q. You say there are clearly stated facts and circumstances, is that an accurate statement?</p> <p>A. Yes, there are clearly stated facts and circumstances. They are the officers made clear statements about facts and circumstances that they</p>

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<p style="text-align: right;">Page 122</p> <p>1 were facing at that moment.</p> <p>2 Q. So you would view the difference between</p> <p>3 officer Gildee's statement about where he was when</p> <p>4 he heard the shots, and Hill's differing statement</p> <p>5 about where he was as clear about the question of</p> <p>6 where Hill was?</p> <p>7 A. Well, it isn't, it's not clear based on</p> <p>8 the difference in factual evidence. Again, I can</p> <p>9 only take the statements and the clarity of the</p> <p>10 statements from the officer's perspective of what</p> <p>11 they truly believed happen and then I compare that</p> <p>12 to the video. And those statements regardless of</p> <p>13 how true or factual anyone believes they are cannot</p> <p>14 change the outcome of the video analysis and the</p> <p>15 contents in the video.</p> <p>16 O. In Paragraph 53, you rely heavily on Hicks</p> <p>17 Law, and you made reference earlier to Fitt's Law?</p> <p>18 A. Hold on. When you say I rely heavily,</p> <p>19 what do you mean by that?</p> <p>20 Q. <i>in</i> the middle of the paragraph you say, as</p> <p>21 stated by Ticks law, the more complex stimulus is,</p> <p>22 the more complex it is in the visual field, the more</p> <p>23 time it can potentially take to respond to the</p> <p>24 stimulus. You used this sentence for a reason in</p> <p>25 this paragraph, correct?</p>	<p style="text-align: right;">Page 124</p> <p>1 mouse pointer on the target.</p> <p>2 Q. So Fitt's Law is generated from desktop</p> <p>3 use of pointers on a computer screen?</p> <p>4 A. And it's a concept just like the simple</p> <p>5 stimulus experiment in shooting. It's a very</p> <p>6 sterile and lacking complexity to identify the time</p> <p>7 it takes to get to a target that is smaller versus</p> <p>8 larger,</p> <p>9 Q. would you give me the name of a scientific</p> <p>10 study that applies Fitt's Law as you used it in</p> <p>11 Paragraph 53?</p> <p>12 A. Another scientific study.</p> <p>13 Q. No, a scientific study that uses Pitt's</p> <p>14 Law.</p> <p>15 A. I know of none, it's simply a concept.</p> <p>16 Q. Can you give me the scientific study in</p> <p>17 the human factors subject area that applies Hicks</p> <p>18 Law to shooting incidents?</p> <p>19 A. Y58.</p> <p>20 O. What study is that?</p> <p>21 A- The shoot, don't shoot study is conducted</p> <p>22 by the Force Science Institute add complexity to the</p> <p>23 stimulus range, and wherever there is a determinant</p> <p>24 factor, it increases the time of the decision, Hicks</p> <p>25 law states that the more complex the information,</p>
<p style="text-align: right;">Page 123</p> <p>1 A. Yes, it's just, it is stating the</p> <p>2 complexity of the stimulus adding potential time to</p> <p>3 the decision making, potential time. So Hicks Law</p> <p>4 is the law that states that, is the only reason it's</p> <p>5 there. I don't rely on it heavily for anything. I</p> <p>6 am simply stating that Hicks Law states the similar</p> <p>7 thing that we talked about in complex stimulus</p> <p>8 situations.</p> <p>9 Q. Is this part of the scientific basis of</p> <p>10 the human practice analysis, this Hicks Law?</p> <p>11 A. Hicks Law is simply a concept in exactly</p> <p>12 that. Time is added to a decision making process</p> <p>13 when the stimulus is complex.</p> <p>14 Q. What is the formula for Hicks Law?</p> <p>15 A. I don't know.</p> <p>16 Q. What is the formula for Fitt's Law?</p> <p>17 A. I don't know. The concept for Fitt's Law</p> <p>18 is size of the target and distance equals more time</p> <p>19 in the decision to shoot or in the time that it</p> <p>20 takes you to hit that target.</p> <p>21 O. Do you know the history of Fitt's Law?</p> <p>22 A. I know it was conducted on a computer with</p> <p>23 a mouse and different size targets, which is</p> <p>24 specifically to identify the fact that the smaller</p> <p>25 the target it is the longer it takes you to get your</p>	<p style="text-align: right;">Page 125</p> <p>1 the longer it takes to make a decision. Hicks Law</p> <p>2 is applied in very simple situations. In that study</p> <p>3 the simple stimulus was one light, the complexity</p> <p>4 was simply two lights or a different colored light</p> <p>5 that added nearly a quarter of a second to the</p> <p>6 decision making process under very controlled</p> <p>7 laboratory environments.</p> <p>8 O. Do you know of any scientific study</p> <p>9 applying Hicks Law to shooting incidents outside of</p> <p>10 the study you referred to done by Force Science?</p> <p>11 A. I am not aware.</p> <p>12 Q. would you look at Paragraph 55?</p> <p>13 A. Yes.</p> <p>14 O, Of your report, the first line, you use</p> <p>15 the word most probable, the phrase most probable?</p> <p>16 A. Yes, sir.</p> <p>17 Q. You mean that there are other possible</p> <p>18 conclusions that can be drawn from the information</p> <p>19 that you reviewed, correct?</p> <p>20 A. No, what I mean is based on the</p> <p>21 information that I have gathered in this</p> <p>22 investigation, and the video evidence and what I am</p> <p>23 seeing based on my experiences in human dynamics and</p> <p>24 human movement and human behavior, that the probable</p> <p>25 occurrence, meaning that there could be other</p>

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<p style="text-align: right;">Page 126</p> <p>scenarios, but that wouldn't vary with any profound difference on what we are seeing on the video.</p> <p>Meaning, in time line, meaning in the dynamics of movement, the dynamics of a subject falling, It's probable versus, passible. Passible is a very broad spectrum, probable is much More refined.</p> <p>Q« You refer at the end of paragraph, your paragraph 55 to Lewineki 2014?</p> <p>A. Yes, sir.</p> <p>Q. What does that refer to, what document is that?</p> <p>A. That is the capes of gunfire. The police officer reaction time to start and stop shooting.</p> <p>Q. That's the one that's listed at the end?</p> <p>A. Yes, sir. Sir, those are available or Force Science website, as well.</p> <p>Q. I went to that, They are for sale. Would you provide ma those documents?</p> <p>A. There is only one document that they charge for, that someone else has a property for. Everything else you should be able to get off of their website.</p> <p>Q. I tried to do so, T couldn't. Would you provide me with the two Lewinski documents?</p> <p>MR. DICIANNI: For a fee.</p>	<p style="text-align: right;">Page 128</p> <p>send you that, as well. I will send you that study, as well it should be available.</p> <p>Q. So the information, the training you have is based on this study?</p> <p>A. It's based on this study, yes.</p> <p>Q. You have no field training?</p> <p>A. There is no training existing on shell casing ejections. It's simply a study that was done to show the variance in shell casing ejections.</p> <p>Q. You have done no reports in which you have done shell casing study analysis?</p> <p>A. I have done,</p> <p>Q. In which?</p> <p>A. Unfortunately, they are on my department, so they axe not available. Sir, did you find in here that cited, the shell casing ejection Study?</p> <p>Q. You just have the William Lewinaki 2010, but I don't know what that refers to,</p> <p>A. Okay.</p> <p>Q. And it has a William Lewinski PW, and you have in your work cited index, a William Lewinski, D.A, so?</p> <p>A. Yes, that's two different studies. The study is not included, I will make sure you get that.</p>
<p style="text-align: right;">Page 127</p> <p>Q. And the citation we talked about earlier?</p> <p>A. I am going to have to do that from my home office, I have to send it to you electronically.</p> <p>MR. DICIANNII Send it to me.</p> <p>Q. Okay.</p> <p>MR. DICIANNI: Actually, I would ask you to, could you put that request in writing?</p> <p>MR. ODIM, Yes, I will do it after this,</p> <p>Q. Do you have any training in analysis of casing, shell casing ejection patterns?</p> <p>A. Through the Force Science Institute, yes.</p> <p>Q. What is that training?</p> <p>A- Ji\$ the there is an in depth study, and I believe it's cited in here, it's called the ejection study, the shell casing ejection study.</p> <p>R. And where is that, you do reference it in your report, but what is the study?</p> <p>A- It's an in depth study about shell casing ejections.</p> <p>Q. What is the name of it, when was it published and who wrote?</p> <p>A. It's Lewinski, and it is just called the shell casing ejection. Is that not on here?</p> <p>Q. No.</p> <p>A. I think I got a glitch in my user. I will</p>	<p style="text-align: right;">Page 129</p> <p>Q. What does PW mean?</p> <p>A, It's just the way that when it's uploaded into the program, this is how it's printed out on my citations.</p> <p>Q. That's at Page 32, middle of the page.</p> <p>A. Got you.</p> <p>Q. You also refer on Page 32, middle of the page to a Garrison, what does that refer to, what is the name of that source?</p> <p>A. That's within William J Lewinski's study. Garrison is cited ill his study, that's going to be a part of his study.</p> <p>Q. And again, in paragraph 59, you use italicized?</p> <p>A. That's work directly from the study.</p> <p>Q. So that's a quote that doesn't have quotation marks around it?</p> <p>A. Yes, it isn't a statement from someone, it's just the work from the study itself.</p> <p>Q. Now, in paragraph 50 of your report?</p> <p>A. Yes.</p> <p>Q. The second line, you refer to an Exhibit 6, what does that Exhibit 6, where is that Exhibit 5?</p> <p>A. Photographs Exhibit 6 is the title of the</p>

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<p style="text-align: right;">Page 130</p> <p>1 photo in the file that I gave you, it's the 2 photographs Exhibit 6. 3 Q. That's in the thumb drive you gave me? 4 A. Yes, Exhibit 6 is the name of the 5 photograph, it's what the photograph is labeled as. 6 Q. So there is nothing attached to this 7 document? 8 A. No, that's what the photograph depicted in 9 photographs Exhibit 6, that's the title on it. 10 Q. Does your resume contain any information 11 about you're having done any reports involving the 12 analysis of cartridge shall casing? 13 A. No. 14 Q. Does your resume contain any reference to 15 you're having been trained to do analysis on 16 cartridge shell casing ejections? 17 A. only through the Force Science Institute. 18 Q. But it doesn't say that? 19 A. NO, 20 Q. On your resume? 21 A. No, that's just part of the curriculum. 22 Q. And what part of the curriculum is not 23 stated directly in your resume? 24 A. No, sir. 25 Q. Would you look at Paragraph 61 of your</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Well, based on what he said, not what you 2 say where he probably was, I mean, based on 3 specifically what Gildea said, are you accepting or 4 rejecting the accuracy of his statement about where 5 he was when he heard shots fired? 6 A. Well, this is, I would have to say that 7 based on where he said he was when shots were fired 8 and where that is, where my opinion of where shots 9 were fired on the video, they don't line up, so I 10 would have to say this his recall of that, Based on 11 the video evidence is incongruent with the activity 12 that we can see on the video. 13 Q. So you are not accepting as accurate 14 Gildea's version of where he said he was when he 15 heard shots fired? 16 A. I am stating the video <i>says</i> something 17 different to me, so yes, the accuracy of his 18 statements to me is off. 19 Q. Okay. Would you look at your paragraph 20 62, again, you have much of this paragraph, well, 21 the whole paragraph italicized, would it be fair to 22 say again that this is a quotation lifted from the 23 referenced article? 24 A. It is, this is not, those are not my 25 words. When they are italicized, that's where it's</p>
<p style="text-align: right;">Page 131</p> <p>1 document, which is at Page 33? 2 A. Yes. 3 Q. Beginning line 9. 4 A. Okay. 5 Q. You say it is not uncommon in these types 6 of critical incidents from memory to be out of 7 chronological order or suffer from a distortion 8 based on the particular focus of attention involved 9 officer or witness officers. Are you applying that 10 general statement to Officer garrison's statement 11 about where he was when he fired shots? 12 A. Yes, and it really applies to any officer 13 in a critical incident. Often times in some of the 14 investigations, investigations I conduct, the memory 15 is called flash bulb memory. So depending on what 16 your focus of attention is, you will recall things 17 out of order. That's not to say this happened here, 18 but it's not uncommon to see it. 19 Q. Are you discounting Oildea's statement 20 about where he was when he heard the shots fired 21 based on the application of the language I just 22 read? 23 A. No, in fact, I am stating that he was 24 probably parallel, just behind the building when 25 shots were fired.</p>	<p style="text-align: right;">Page 133</p> <p>1 from the published site. 2 Q. And the Gewinski 2008 study is what? 3 A. You know, it's not listed on here either. 4 And I have to say that there is something that's 5 either missing that got punched to another page or 6 something glitched in my program, but that is not 7 listed there either. 8 Q. Do you know what the name of the study is? 9 A. No, I don't have the name of it, but I 10 will forward it to you. I am not certain that is a 11 study or whether that is an article written by 12 Dr. Lewinski. 13 Q. sa if you could just get me the actual 14 document? 15 A. I will have everything that's here that's 16 not listed on my citation. 17 Q. Your paragraph 36, which ends on Page 35, 18 there is a reference to a Hope 2015, which is not 19 followed by a citation to Lawinski, is Hope 2015 a 20 separate reference? 21 A. Yee, that is. 22 Q. And what article is that? 23 A. Well, again, it's not listed, so I have to 24 send that to you. I have a specific set of articles 25 that I go to, and they are suppose to be listed in</p>

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<p style="text-align: right;">Page 134</p> <p>1 my citations. And for some reason they are not 2 there, and I did not double-check it. And these are 3 again, this is work straight from the article of the 4 study, that's not my work, that is straight from 5 Hope 2015. 6 Q. Okay. would you look at paragraph, your 7 Paragraph 66? 8 A. Okay. 9 4. Beginning with Line 24? 10 A. Okay. 11 4. well, beginning with Line 23, sorry, this 12 report is particularly focused on the use of force 13 applied by Officer Hill of the Zion Illinois Police 14 Department, an it relates to human factors that may 15 illustrate the officer's perspective in his use of 16 force decision making. You mean by this that it, 17 that the use of force that you have illustrated in 18 this report, may or may not illustrate Officer 19 Hill's perspective in the use of force decision 20 making in this incident? 21 A. The human factors that are in play here 22 may illustrate the officer's perspective in his use 23 of force decision making. So when we are looking at 24 all of the human dynodes, the terms, all we have is 25 the statement to go on. So what this is stating is</p>	<p style="text-align: right;">Page 130</p> <p>1 bullets that were in Justus Howell might have 2 affected your opinions given in this report? 3 A. Judging by the dynamic, I would have only 4 used them as comparables to what my opinion was of 5 what I see existing on the video. I can't say 6 whether it would have or would not have had an 7 affect on my opinion, but I know that officer Hill 8 shot two rounds. The two rounds hit Justus Howell. 9 And there was an extremely dynamic interaction with 10 forward motion, with falling, running, all of these 11 different dynamics, so the forensic information 12 from the Corners Report, I would have only used it 13 to compare what information was existing at that 14 time. 15 Q. You don't know what is in the report? 16 A. I don't. 17 Q. Do you know how you would have used it? 18 A. Well, the unfortunate thing is I don't 19 know how I would have used it, 20 Q. In the report that Lewinski did for the 21 task force, he reviewed that, do you know that? 22 A. No, I didn't know that. 23 Q. And he drew conclusions based on that, do 24 you know that? 25 A. No.</p>
<p style="text-align: right;">Page 135</p> <p>1 that based on the evidence that we have from the 2 video and the forensic evidence on the scene and all 3 of that, ns it applies to the officer and his 4 statements about what is happening, we are looking 5 at the human factors in a comparative fashion 6 between what we are seeing on the video and what the 7 officer's statements are. we cannot determine 8 exactly what his focus of attention is at any given 9 second or split second in that sequence. All we can 10 do is take the information that's available to us 11 visually, and give you an opinion on the things that 12 we see happening, based on all of the surrounding 13 facts and evidence and statements, whether they are 14 subjective or objective, they are all we have to 15 work with. Roth on defense and Plaintiff's side. 16 So what that is saying is that it may, it may 17 reflect a perspective for Officer Hill on the use of 18 force, but his statements may not be exactly 19 accurate, just like officer Gildea's statements may 20 not be exactly accurate, and my opinion has to be 21 something that is most probable based on the video 22 evidence and what we see corroborates all of these 23 other statements. 24 Q. Is it your opinion that the medical 25 examiner's report about the entry wounds for the</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. Do you know that he did a purported or had 2 a purported ballistics analysis done? 3 A. No, I was not aware of that. 4 Q. would a ballistics analysis have changed 5 your opinion given in this case? 6 A. Without seeing it, I wouldn't be able to 7 answer that. 8 Q. Do you know why you were not given 9 Lewinski report, even though it was a report that 10 the task force relied on in drawing its conclusion 11 that Officer Hill was engaged in the justified 12 shoot? 13 A. I don't know, 14 MR. DICIANNI: I am going to object to 15 that conclusion. Task force never came to any 16 determinations about whether something was 17 justified or not. 18 Q. Okay. Let me re-ask it so it's fair. Do 19 you know why you were not given the report done by 20 Lewinski, even though it was part of the decision 21 making information that the task force used? 22 A. was that on a criminal case? 23 Q. That was in this case, no, it wasn't. 24 A. No, I don't know why I was not given that 25 information, I have no idea. I would assume it's</p>

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<p style="text-align: right;">Page 138</p> <p>because they want my opinion on this, end not 2 Dr, Lewineki's, 3 Q. Are the opinions or are the findings and 4 opinions of the investigation, let me re-ask it. Is 5 the investigation done by the task force in your 6 opinion not useful in considering the incident that 7 happened? 8 A. It may have been, but I didn't have it, I 9 can't answer that, I don't have the report, so. 10 Q. would you look at Paragraph 64 of your 11 report, that's Page 35, you say that there is no 12 sufficient detail of an identifiable firearm visible 13 in the video? 14 A. where are we at? 15 Q. Your paragraph 64, Page 35? 16 A. Okay. 17 Q. The first sentence? 18 A. Yes. 19 Q. There is no sufficient detail of an 20 identifiable firearm. In fact there is no detail of 21 a firearm. 22 A. In either the officer? 23 Q. So I am just, your adjective sufficient, 24 there 18 no detail, there is no insufficient detail, 25 neither is there...</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. would you look at your Paragraph 62, which 2 is on Page 33? 3 A. Okay. 4 Q. Again, this is italicised? 5 A. Yes, this is Dr. Lewinski's work. 6 12, The quote begins, during the investigation 7 of officer involved shooting and some homicide 8 incidents, knowing the shooter's location can be a 9 valuable piece 04 information- In understanding the 10 dynamic of encounter? 11 A. Right. 12 Q. would not the location of the shooter, the 13 location of the person shot be important factors 14 equally? 15 A. They are extremely important factors and 16 can show you that on the video, if you would like. 17 Q. Would the position of the shooter 18 physically, whether he is crouched or standing 19 straight up be an important factor? 20 A. Sure. 21 Q. would the position of the person shot be 22 an important factor? 23 A. Sure. 24 Q. whether they are bending forward, whether 25 they are talked to the right or toward to the left?</p>
<p style="text-align: right;">Page 139</p> <p>A. So let me clarify chat. There is no 2 Sufficient detail of an identifiable firearm visible 3 in the video. 4 Q. Yes, that's all I am talking about. 5 A. In the case of Officer Hill or the 6 suspect, Howell. 7 Q. what I am getting as is then there is no 8 detail in the video from which you could identify a 9 firearm in Howell's hand or an officer? 10 A. Not from the video. 11 Q. Not from the video? 12 A, No, sir. 13 Q. So it's not about sufficiency of evidence, 14 it's about no evidence? 15 A. Yes, there is no sufficient detail in the 16 video. 17 Q. I got you. So it's the detail of the 18 video? 19 A. It's the detail of the video that we are 20 speaking about, and I think I say that no sufficient 21 detail and identifiable firearm visible in the 22 video. So that goes to say that the distance of the 23 camera from the action, the number of pixels, the 24 quality of the digital video, it's indiscernible at 25 that point who is holding what,</p>	<p style="text-align: right;">Page 141</p> <p>1 A. Yes, sir. 2 Q. In order for Howell to have been pointing 3 a gun at Hill, the way Hill says it happened, would 4 Howell not have to have been talked to the right, 5 with his right hand coming across his body pointing 6 the gun, backwards at Hill? 7 A. If they were running directly in front of 8 and behind each other, yes, but they were not. 9 Q. Okay. 10 A. They are running at a disparage of, there 11 is a disparaging angle. The position in this 12 position I am standing directly in front of you. 13 Q. You are going to have to describe it 14 verbally? 15 A. standing directly in front of counsel to 16 exemplify the turning method this way. So yes, we 17 would have to come across body extreme and look back 18 and point the weapon, but in this case, based on the 19 angle of convergence, do you mind if I step to the 20 other side of you, you are running here, Justus 21 Howell is running approximately at this angle, this 22 weapon is much quicker and there is a much less 23 prominent body movement required for that weapon to 24 be seen and to be used. This convergence and this 25 angle is very important because you don't see that</p>

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<p style="text-align: right;">Page 142</p> <p>1 in two dimensional video, but in location factors 2 that I described in the three pictures we talked 3 about, There is a much less prominent term required 4 for that weapon to be visible and used. 5 O. Okay. You don't know what the angle, the 6 measurement of the angle was between from where Hill 7 was standing and where Howell was located when Hill 8 said the weapon was pointed at him? 9 A. I don't know the exact angles, no, but I 10 do know that from the pictures there is a 11 significant angle with a distance of at least the 12 length of the car, plus whatever distance they were 13 running outside of that. 14 Q. You don't know, you can't fix a number on 15 the angle? 16 A. Can't fix a number on it. 17 Q. Okay. 18 A. Hut the angle exists. 19 Q. Okay. Aid you don't know in order to fix 20 a number to the angle, you would have to know where 21 Howell was when Hai says Howell pointed the gun and 22 where Hill was when Hill says he saw Howell point 23 the gun, correct? 24 A. Right, so based on those statements, we 25 can look at the video and we can adopt what they are</p>	<p style="text-align: right;">Page 244</p> <p>You don't have any measurement?</p> <p>2 A. No, it's irrelevant to the point. 3 Q. Well, how are you in a position to give an 4 opinion that there was a significant angle of 5 divergence when you have no measurements at all? 6 A. From the video and the photographs taken 7 on the scene. So it's a minimum of the length of 8 the car and a maximum of however much distance was 9 between Justus Howell and the back of that car, and 10 every foot that it goes out further is less of a 11 turn that is required by Justus Howell. so at a 12 very minimum the length of that car, which is 13 approximately 12 feet, that very minimum, the 14 distance that Justus Howell will have to rotate is 15 greatly reduced from parallel to whatever that very 16 minimum angle is. Every foot that Justus Howell 17 goes out, that reduces the amount of turn that is 18 required for officer Hill to potentially see that 19 weapon, and I don't have those exact numbers. 20 Q. But you also don't know where Officer Hill 21 wan, right? 22 A- Yes, we do on the video. We can see 23 precisely where Officer Hill was. we can see 24 precisely where Justus Howell was. 25 Q. You can't sae where Officer Hill was when</p>
<p style="text-align: right;">Page 143</p> <p>1 Saying right down to the fact where Justus Howell 2 came to rest. The pictures Show a general area, but 3 it isn't going to be significantly different than 4 what those pictures show. So we Can identify, well, 5 I can identify an exact angle, but as you watch the 6 video you can identify the momenta based on the 7 statements that are made, down to lees than a 8 second. On where these occurrences happened, based 9 on comparative factors and the video, as it's being 10 played, as the subjects are running, changes in 11 behavior, changes in dynamics, body movement, as 12 this occurrence unfolds. 13 Q. But you don't have a numerical value for 14 significant, what is the phrase you used? 15 A. Significant angle. 16 O. You don't know what that measurement is? 17 A. I don't have that exact number, and 18 photographs don't have any measurements on them. 19 There is no measurements. There is only the reality 20 that the vehicle is a distance, and there is a 21 visible distance, not an exact. I have no exact 22 numbers, but there is a visible difference between 23 the two people an they are running. 24 Q. You donit know how long the vehicle was? 25 A. I don't have an exact measurement.</p>	<p style="text-align: right;">Page 145</p> <p>1 he said, right, he saw the gun? 2 A. No, all we have is the video and the 3 statements. I can't pin an exact poeition, but we 4 can show a window, we can show a window of time on 5 the timeline and positioning of the subjects on the 6 video. 7 Q. You don't know how far, is it fair to say 8 that the further Juatus Howell ran on the grassy 9 lawn, away from Hill, right, the narrower the angle 10 of the divergence? 11 A. Sure, it's at an angle. 12 Q. But you donut know how far he ran on the 13 grass? 14 A. We can make that determination from the 15 video, absolutely. 16 Q. How do you make that determination? 17 A. By looking at the video and assessing from 18 the photographs, and all of those different things. 19 The area exists, and at this point all we have is 20 the video. If we wanted to measure the crime scene, 21 which there was no diagram that I had access to, but 22 a diagram would have to be done, at which point we 23 can get a definitive angle, we can get a definitive 24 resting place, the information exists. 25 Q. lay question, you don't have the</p>

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<p style="text-align: right;">Page 146</p> <p>information, so you didn't make any definitive calculations, right?</p> <p>3 A. There is no definitive calculations, there is only a video showing the action that's happening.</p> <p>5 Q. So you are guessing about the angle of divergence here being significant?</p> <p>7 A. There is no guess about it. The angle is a significant. It's a minimum of 12 feet, and that's no guess, that's the length of that vehicle, ten to 12 feet.</p> <p>11 Q. What is the brand of the vehicle?</p> <p>12 A. I am not certain.</p> <p>13 Q. How do you know it's a 12-foot vehicle?</p> <p>14 A. It's a guesstimation because most vehicles are ten to 12 feet long. The difference between ten feet, 12 feet, 14 feet is insignificant on the angle as a method of approach. It's simply to identify the fact that any bit of an angle requires less of a turn with Justus Howell. That's just physics. Any angle of convergence on that, even if it's slight requires less of a turn to present that weapon and that's what the point is. That this video is in two dimension and that's never been considered, not by anyone. And I know that because I am, that's what I do is I look at the video. So the evidence reflects</p>	<p style="text-align: right;">Page 148</p> <p>1 NR- DICIANNI: Objection to form.</p> <p>2 Q. Even though you are unable to say that the distance that Howell was from Hill when Hill shot him, even though you are unable to say the distance that Howell was from Hill, when Hill may he saw Howell point the gun at him?</p> <p>7 A. That's correct,</p> <p>8 Q. Even though you are unable to specifically locate Hill, at a specific place, coordinates?</p> <p>10 A. During the shooting?</p> <p>11 Q. No, when he <i>saw</i> the gun being pointed at him, when he says he saw the gun being pointed at him?</p> <p>14 ma. DICIANNI! I will object to that.</p> <p>15 A. Yes, I don't think anyone, no one can say exactly where he was at when he says he saw the gun the first time. They can give a general location as he was rounding the corner, all of these different things. There is a bottom line to this, that he saw weapon based on his statements. There is a weapon on the scene and there is an angle of convergence, which reduces the amount of angle in Justus Howell's upper body. Those are physical attributes to this video and to the photographs that I don't make a guess on, that exists in the evidence. I am not</p>
<p style="text-align: right;">Page 147</p> <p>1 an angle of attack, there is an angle of convergence, it exists. I don't know that exact number, but any angle requires or reduces the amount of angle that Justus would have to turn for that weapon to be visible, right hand across body to left-hand side.</p> <p>7 Q. But that angle of divergence, as you put it, is significant?</p> <p>9 A. It is.</p> <p>10 O, And I am trying to drill down on how, significant is a general term?</p> <p>12 A. Okay.</p> <p>13 Q. That implies a measurement which you have not done?</p> <p>15 A. No,</p> <p>16 Q. And I am trying to find out whether or not your conclusion of significance or significant angle as opposed to insignificant angle is based on a guess?</p> <p>20 A. It's not a guess, it's based on visual information that's available to us in picture and video.</p> <p>23 O. So from the video you are able to say that there was a significant angle of divergence?</p> <p>25 A. And the photographs.</p>	<p style="text-align: right;">Page 149</p> <p>1 guessing on it, but I am apt claiming that I know the exact footage, I am claiming that it exists.</p> <p>3 Q. But the angle of convergence, if we accept your view, an angle of divergence exists for the sake of this next question, it exists. Can you determine significance from watching the video and looking at pictures?</p> <p>8 A. Yes, significant from parallel. So significant from this is that. That's a significant angular difference.</p> <p>11 Q. What is the number that you would attach to an angle of divergence that is significant?</p> <p>13 A. I don't have a number, I have a visual, that's all I have.</p> <p>15 Q. I am trying to pin it.</p> <p>16 A. I am going to flat line it, I can't answer it with a number, I cannot.</p> <p>18 Q. Not in this case, not in this case. I am trying to figure out what a significant angle is. Geometry we use acute and obtuse angles. You are using the word significant. What in the abstract is a number that you would apply to a significant angle of divergence; is it ten degrees?</p> <p>24 MR. DICIANNI: I will object to the form of the question.</p>


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<p style="text-align: right;">Page 150</p> <p>1 Q. Do you understand the question?</p> <p>2 A, I do understand, you are looking for me to</p> <p>3 identify what I am calling significant?</p> <p>4 Q. Yea.</p> <p>5 A. I am calling significant any angle that is</p> <p>6 outside of parallel, because every little angle that</p> <p>7 you come out, whether it's one or five or ten</p> <p>8 degrees, ten degrees, if we want to land on a number</p> <p>9 that's significant, ten degrees can be considered</p> <p>10 significant because in that ten degrees, which this</p> <p>11 is approximately, that is still going to reduce</p> <p>12 significantly the amount of turn that justice would</p> <p>13 have had to make in presenting that weapon. Or in</p> <p>14 Officer Hill seeing the weapon or making the</p> <p>15 determination that deadly attack might be imminent.</p> <p>16 So I don't have a number for a significant angle</p> <p>17 over and above the fact that it's not parallel as is</p> <p>18 perceived by anyone that is watching this video.</p> <p>19 Q. So is it fair to say that any angle beyond</p> <p>20 30 degrees is significant?</p> <p>21 A- I would say any angle beyond five degrees</p> <p>22 would be significant.</p> <p>23 Q. Okay. But you don't know what the degrees</p> <p>24 would be in this particular case?</p> <p>25 F'0. DICIANNI: I am going to object to the</p>	<p style="text-align: right;">Page 152</p> <p>1 A. And accept my apologies for that mistake</p> <p>2 because that shouldn't have happened.</p> <p>3 Q. It happens to the best of it. I have no</p> <p>4 further questions. We are done.</p> <p style="text-align: right;">(The deposition concluded at</p> <p style="text-align: right;">2:40 p.m.,)</p>
<p style="text-align: right;">Page 151</p> <p>1 form of the question, and lack of foundation.</p> <p>2 A. NO-</p> <p>3 Q. You already answered it. I was just</p> <p>4 summarizing the question. I think I am done. Did</p> <p>5 you rely on any other studies, any studies other</p> <p>6 than the ones that you cite in the report?</p> <p>7 A. Yes, the ones that I didn't cite in the</p> <p>8 report that I should have.</p> <p>9 Q. Okay. So other than that set, did you</p> <p>10 rely on any other studies in arriving at your</p> <p>11 opinion?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. And when I use the word studies, I mean</p> <p>14 any other written material that may be an article,</p> <p>15 it may be a study, it maybe a research paper?</p> <p>16 A. Not directly. I read extensively so my</p> <p>17 studies all cow into my experience, and my</p> <p>18 experimental treatment of my investigation, can I</p> <p>19 name them all, no.</p> <p>20 Q. I mean the ones you specifically looked at</p> <p>21 for this?</p> <p>22 A- No, they are all cited in the body of the</p> <p>23 document, they are not listed in the citation areas.</p> <p>24 O. T will give counsel a reminder in writing</p> <p>25 Shout the documents that are?</p>	<p style="text-align: right;">Page 153</p> <p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2</p> <p>3</p> <p>4 /, JAME BORDEN, do hereby certify</p> <p>5 under penalty of perjury that I have read the foregoing</p> <p>6 tranarript of my deposition taken an August 21, 20171 her</p> <p>7 I have made such corrections as appear naked herein in</p> <p>8 ink, initialed by me, that my EettiMOfty ad tainted</p> <p>9 herein, as corrected, ie true and correct.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Deted this day of _____</p> <p>15</p> <p>16 2217, at _____</p> <p>17</p> <p>18 _____</p> <p>19</p> <p>20</p> <p>21</p> <p>22 _____</p> <p>23 JAMIE BORDEN, Deponent</p> <p>24</p> <p>25 aisittatute waived.)</p>

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<p>Page 154</p> <p>1 CERT/PI: CATE OP DEPONENT 2 PANE LINE CNAME</p> <p>4</p> <p>6</p> <p>V</p> <p>B</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>16</p> <p>16 I, JAMIE BORDEN, deponent herein, do hereby certify and declare under penalty of perjury the within and 17 foregoing transcription to be my deposition in said action; that I have read, corrected and do hereby affix my signature to said deposition.</p> <p>is</p> <p>IP JAMIE BORDEN, Deponent</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p>Page 155</p> <p>1 CURTIFICATS OF REPORTER</p> <p>2</p> <p>3 I, Shifra Moscovits, certified Court Reporter,</p> <p>4 State of Nevada, do hereby certify;</p> <p>That I reported the deposition pf 016118 sOnnzu,</p> <p>6 commencing on Friday. Augsit 25, 2x17, at 1.540 4.41.</p> <p>7 That prior to being deposed, the witness was duly</p> <p>8 mworn by me to testify to the truth. That I thereafter</p> <p>0 transcribed my said shorthand notes into typewriting and</p> <p>in that the typewritten transcript is a complete, true and</p> <p>11 accurate transcription of My eaid shorthand notes. That</p> <p>12 prior to the concluelon of the proceedings, the reading and</p> <p>13 signing wan not requested by the witness or a party.</p> <p>14 I further certify that I am not a relative or</p> <p>15 employee of counsel of any of the parties, nor a relative or</p> <p>16 employee of the parties involved in said action, nor a</p> <p>17 person financially interested in the action.</p> <p>18 In witness whereof, I hereunto subscribe my name</p> <p>19 at Las Vegas, Nevada, this Sth day of September, 2017.</p> <p>20</p> <p>21 </p> <p>22 SHIFRA MOSCOVITE, [CR No. 910</p> <p>23</p> <p>24</p> <p>25</p>	

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